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H. R. 4200

# One Hundred Eighth Congress of the United States of America

**AT THE SECOND SESSION**

***Begun and held at the City of Washington on Tuesday, the twentieth day of January, two thousand and four***

# An Act

To authorize appropriations for fiscal year 2005 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 "Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005".

**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:

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**SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

# DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

# TITLE I—PROCUREMENT

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Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
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Sec. 143. Report on options for acquisition of precision-guided munitions.

# Subtitle A—Authorization of Appropriations

**SEC. 101. ARMY.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Army as follows:

(1) For aircraft, $2,611,540,000.

(2) For missiles, $1,307,000,000.

(3) For weapons and tracked combat vehicles, $1,702,695,000.

(4) For ammunition, $1,545,702,000.

(5) For other procurement, $4,345,246,000.

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

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Navy as follows:

(1) For aircraft, $8,814,442,000.

(2) For weapons, including missiles and torpedoes, $2,067,520,000.

(3) For shipbuilding and conversion, $10,116,827,000.

(4) For other procurement, $4,633,886,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Marine Corps in the amount of $1,268,453,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement of ammunition for the Navy and the Marine Corps in the amount of $878,140,000.

**SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Air Force as follows:

(1) For aircraft, $13,228,124,000.

(2) For ammunition, $1,318,959,000.

(3) For missiles, $4,548,513,000.

(4) For other procurement, $12,949,327,000.

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

Funds are hereby authorized to be appropriated for fiscal year 2005 for Defense-wide procurement in the amount of $2,846,583,000.

## Subtitle B—Army Programs

**SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR THE LIGHT WEIGHT 155-MILLIMETER HOWITZER PROGRAM.**

The Secretary of the Army and the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, jointly enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of the light weight 155-millimeter howitzer.

**SEC. 112. LIGHT UTILITY HELICOPTER PROGRAM.**

(a) LIMITATION.—None of the funds authorized to be appropriated under section 101(1) for the procurement of light utility helicopters may be obligated or expended until 30 days after the date on which the Secretary of the Army submits to the congressional defense committees a report that contains—

(1) the Secretary's certification that all required documentation for the acquisition of light utility helicopters has been completed and approved; and

(2) an Army aviation modernization plan described in subsection (b).

(b) ARMY AVIATION MODERNIZATION PLAN.—The Army aviation modernization plan referred to in subsection (a)(2) is an updated modernization plan for Army aviation that contains, at a minimum, the following:

(1) The analysis on which the plan is based.

(2) A discussion of the Secretary's decision to terminate the Comanche helicopter program and to restructure the aviation force of the Army.

(3) The actions taken or to be taken to accelerate the procurement and development of aircraft survivability equipment for Army aircraft, together with a detailed list of aircraft survivability equipment that specifies such equipment by platform and by the related programmatic funding for procurement.

(4) A discussion of the conversion of Apache helicopters to block III configuration, including (A) the rationale for converting only 501 Apache helicopters to that configuration, and (B) the costs associated with a conversion of all Apache helicopters to the block III configuration.

(5) A discussion of the procurement of light armed reconnaissance helicopters, including (A) the rationale for the requirement for light armed reconnaissance helicopters, and (B) a discussion of the costs associated with upgrading the light armed reconnaissance helicopter to meet Army requirements.

(6) The rationale for the Army's requirement for light utility helicopters, together with a summary and copy of the analysis of the alternative means for meeting such requirement that the Secretary considered in the determination to procure light utility helicopters, including, at a minimum, the analysis of the alternative of using light armed reconnaissance helicopters

and UH–60 Black Hawk helicopters instead of light utility helicopters to meet such requirement.

(7) The rationale for the procurement of cargo fixed-wing aircraft.

(8) The rationale for the initiation of a joint multi-role helicopter program.

(9) A description of the operational employment of the Army's restructured aviation force.

## Subtitle C—Navy Programs

**SEC. 121. DDG–51 MODERNIZATION PROGRAM.**

(a) ACCELERATION OF MODERNIZATION PROGRAM.—The Secretary of the Navy shall accelerate the program for in-service modernization of the DDG–51 class of destroyers (in this section referred to as the "modernization program").

(b) REPORT.—Not later than March 31, 2005, the Secretary of the Navy shall submit to the congressional defense committees a report on the steps taken as of that date to carry out subsection (a). The report shall—

(1) describe the elements of the modernization program; and

(2) specify those elements of the modernization program that are expected to contribute to the goal of reducing the crew size of the DDG–51 class of destroyers by one-third and explain the basis for those expectations.

**SEC. 122. REPEAL OF AUTHORITY FOR PILOT PROGRAM FOR FLEXIBLE FUNDING OF CRUISER CONVERSIONS AND OVERHAULS.**

Section 126 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1410; 10 U.S.C. 7291 note) is repealed.

**SEC. 123. LHA(R) AMPHIBIOUS ASSAULT SHIP PROGRAM.**

(a) AUTHORIZATION OF SHIP.—The Secretary of the Navy is authorized to procure the first amphibious assault ship of the LHA(R) class, subject to the availability of appropriations for that purpose.

(b) AUTHORIZED AMOUNT.—Of the amount authorized to be appropriated under section 102(a)(3) for fiscal year 2005, $150,000,000 shall be available for the advance procurement and advance construction of components for the first amphibious assault ship of the LHA(R) class. The Secretary of the Navy may enter into a contract or contracts with the shipbuilder and other entities for the advance procurement and advance construction of those components.

## Subtitle D—Air Force Programs

**SEC. 131. PROHIBITION OF RETIREMENT OF KC–135E AIRCRAFT.**

The Secretary of the Air Force may not retire any KC–135E aircraft of the Air Force in fiscal year 2005.

**SEC. 132. PROHIBITION OF RETIREMENT OF F–117 AIRCRAFT.**

No F–117 aircraft in use by the Air Force during fiscal year 2004 may be retired during fiscal year 2005.

**SEC. 133. AERIAL REFUELING AIRCRAFT ACQUISITION PROGRAM.**

(a) TERMINATION OF LEASING AUTHORITY.—Subsection (a) of section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413; 10 U.S.C. 2401a note) is amended by striking "may lease no more than 20 tanker aircraft" and inserting "shall lease no tanker aircraft".

(b) MULTIYEAR PROCUREMENT AUTHORITY.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking "Beginning with the fiscal year 2004 program year, the Secretary" and inserting "The Secretary"; and

(B) by striking "necessary to meet" and all that follows through "is insufficient";

(2) in paragraph (2), by striking "80" and inserting "100"; and

(3) by striking paragraph (4).

(c) STUDY.—Subsection (c)(1) of such section is amended by striking "leased under the multiyear aircraft lease pilot program or" in subparagraphs (A) and (B).

(d) RELATIONSHIP TO PREVIOUS LAW.—Such section is further amended by adding at the end the following new subsection:

"(f) RELATIONSHIP TO PREVIOUS LAW.—The multiyear procurement authority in subsection (b) may not be executed under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117).".

# Subtitle E—Other Matters

**SEC. 141. DEVELOPMENT OF DEPLOYABLE SYSTEMS TO INCLUDE CONSIDERATION OF FORCE PROTECTION IN ASYMMETRIC THREAT ENVIRONMENTS.**

(a) REQUIREMENT FOR SYSTEMS DEVELOPMENT.—The Secretary of Defense shall require that the Department of Defense regulations, directives, and guidance governing the acquisition of covered systems be revised to require that—

(1) an assessment of warfighter survivability and of system suitability against asymmetric threats shall be performed as part of the development of system requirements for any such system; and

(2) requirements for key performance parameters for force protection and survivability shall be included as part of the documentation of system requirements for any such system.

(b) COVERED SYSTEMS.—In this section, the term "covered system" means any of the following systems that is expected to be deployed in an asymmetric threat environment:

(1) Any manned system.

(2) Any equipment intended to enhance personnel survivability.

(c) INAPPLICABILITY OF DEVELOPMENT REQUIREMENT TO SYSTEMS ALREADY THROUGH DEVELOPMENT.—The revisions pursuant subsection (a) to Department of Defense regulations, directives, and guidance shall not apply to a system that entered low-rate initial production before the date of the enactment of this Act.

(d) DEADLINE FOR POLICY REVISIONS.—The revisions required by subsection (a) to Department of Defense regulations, directives,

and guidance shall be made not later than 120 days after the date of the enactment of this Act.

**SEC. 142. ALLOCATION OF EQUIPMENT AUTHORIZED BY THIS TITLE TO UNITS DEPLOYED, OR TO BE DEPLOYED, TO OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.**

In allocating equipment acquired using funds authorized to be appropriated by this title to operational units deployed, or scheduled to be deployed, to Operation Iraqi Freedom or Operation Enduring Freedom, the Secretary of Defense shall ensure that the allocation is made without regard to the status of the units as active, Guard, or reserve component units.

**SEC. 143. REPORT ON OPTIONS FOR ACQUISITION OF PRECISION-GUIDED MUNITIONS.**

(a) REQUIREMENT FOR REPORT.—Not later than March 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report on options for the acquisition of precision-guided munitions.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A list of the precision-guided munitions in the inventory of the Department of Defense.

(2) For each such munition—

(A) the inventory level as of the most recent date that it is feasible to specify when the report is prepared;

(B) the inventory objective that is necessary to execute the current National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff;

(C) the year in which that inventory objective would be expected to be achieved—

(i) if the munition were procured at the minimum sustained production rate;

(ii) if the munition were procured at the most economic production rate; and

(iii) if the munition were procured at the maximum production rate; and

(D) the procurement cost for each munition (in constant fiscal year 2004 dollars) at each of the production rates specified in subparagraph (C) for each year in the future-years defense program.

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

**Subtitle A—Authorization of Appropriations**

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

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

Sec. 211. Future Combat Systems program strategy.
Sec. 212. Collaborative program for research and development of vacuum electronics technologies.
Sec. 213. Annual Comptroller General report on Joint Strike Fighter program.
Sec. 214. Amounts for United States Joint Forces Command to be derived only from Defense-wide amounts.
Sec. 215. Global Positioning System III satellite.

Sec. 216. Initiation of concept demonstration of Global Hawk high altitude endurance unmanned aerial vehicle.
Sec. 217. Joint Unmanned Combat Air Systems program.

**Subtitle C—Missile Defense Programs**

Sec. 231. Fielding of ballistic missile defense capabilities.
Sec. 232. Integration of Patriot Advanced Capability-3 and Medium Extended Air Defense System into ballistic missile defense system.
Sec. 233. Comptroller General assessments of ballistic missile defense programs.
Sec. 234. Baselines and operational test and evaluation for ballistic missile defense system.

**Subtitle D—Other Matters**

Sec. 241. Annual report on submarine technology insertion.
Sec. 242. Sense of Congress regarding funding of the Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program of the Navy.

# Subtitle A—Authorization of Appropriations

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

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,307,248,000.

(2) For the Navy, $16,200,591,000.

(3) For the Air Force, $20,432,933,000.

(4) For Defense-wide activities, $20,556,986,000, of which $304,135,000 is authorized for the Director of Operational Test and Evaluation.

**SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.**

(a) FISCAL YEAR 2005.—Of the amounts authorized to be appropriated by section 201, $11,191,600,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

# Subtitle B—Program Requirements, Restrictions, and Limitations

**SEC. 211. FUTURE COMBAT SYSTEMS PROGRAM STRATEGY.**

(a) PROGRAM STRATEGY REQUIRED.—The Secretary of the Army shall establish and implement a program strategy for the Future Combat Systems acquisition program of the Army. The purpose of the program strategy shall be to provide an effective, affordable, producible, and supportable military capability with a realistic schedule and a robust cost estimate.

(b) ELEMENTS OF PROGRAM STRATEGY.—The program strategy shall—

(1) require the release, at the design readiness review, of not less than 90 percent of engineering drawings for the building of prototypes;

(2) require, before facilitating production or contracting for items with long lead times, that an acceptable demonstration be carried out of the performance of the information network, including the performance of the Joint Tactical Radio System and the Warfighter Information Network-Tactical; and

(3) require, before the initial production decision, that an acceptable demonstration be carried out of the collective capability of each system to meet system-of-systems requirements when integrated with the information network.

(c) REQUIRED SUBMISSIONS TO CONGRESS.—Before convening the Milestone B update for the Future Combat Systems acquisition program required by the Future Combat Systems acquisition decision memorandum, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to Congress each of the following documents:

(1) The cost estimate of the Army with respect to the Future Combat Systems program.

(2) A report, prepared by an independent panel, on the maturity levels of the critical technologies with respect to the program, including an assessment of those technologies that are likely to require a decision to use an alternative approach.

(3) A report, prepared by the chief information officer of the Army, describing—

(A) the status of the development and integration of the network and the command, control, computers, communications, intelligence, surveillance, and reconnaissance components; and

(B) the progress made toward meeting the requirements for network-centric capabilities as set forth by such officer.

(4) A report identifying the key performance parameters with respect to the program, with all objectives and thresholds quantified, together with the supporting analytical rationale.

(d) INDEPENDENT COST ESTIMATE.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to Congress not later than March 1, 2005, an independent cost estimate, prepared by the cost analysis improvement group of the Office of the Secretary of Defense, with respect to the Future Combat Systems program.

(e) LIMITATION ON FUNDING.—(1) Except as provided in paragraph (2), the Secretary of the Army may not obligate, from amounts made available for fiscal year 2005, more than $2,200,000,000 for the Future Combat Systems acquisition program.

(2) The limitation in paragraph (1) shall not apply after the Secretary of the Army submits to Congress—

(A) the Secretary's certification that the Secretary has established and implemented the program strategy required by subsection (a); and

(B) each of the documents specified in subsection (c).

**SEC. 212. COLLABORATIVE PROGRAM FOR RESEARCH AND DEVELOPMENT OF VACUUM ELECTRONICS TECHNOLOGIES.**

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish a program for research and development in advanced vacuum electronics to meet the requirements of Department of Defense systems.

(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 Secretary of the Air Force, the Secretary of the Army, and other appropriate elements of the Department of Defense. The program shall include the following activities:

(1) Activities needed for development and maturation of advanced vacuum electronics technologies needed to meet the requirements of the Department of Defense.

(2) Identification of legacy and developmental Department of Defense systems which may make use of advanced vacuum electronics under the program.

(c) REPORT.—Not later than January 31, 2005, 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) Identification of the organization to have lead responsibility for carrying out the program.

(2) Assessment of the role of investing in vacuum electronics technologies as part of the overall strategy of the Department of Defense for investing in electronics technologies to meet the requirements of the Department.

(3) The management plan and schedule for the program and any agreements relating to that plan.

(4) Identification of the funding required for fiscal year 2006 and for the future-years defense program to carry out the program.

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

(6) An outline of the role of basic and applied research in support of the development and maturation of advanced vacuum electronics technologies needed to meet the requirements of the Department of Defense.

(7) Assessment of global capabilities in vacuum electronics technologies and the effect of those capabilities on the national security and economic competitiveness of the United States.

**SEC. 213. ANNUAL COMPTROLLER GENERAL REPORT ON JOINT STRIKE FIGHTER PROGRAM.**

(a) ANNUAL GAO REVIEW.—The Comptroller General shall conduct an annual review of the Joint Strike Fighter aircraft program and shall, not later than March 15 of each year, submit to the congressional defense committees a report on the results of the most recent review. With each such report, the Comptroller General shall submit a certification as to whether the Comptroller General has had access to sufficient information to enable the Comptroller General to make informed judgments on the matters covered by the report.

(b) MATTERS TO BE INCLUDED.—Each report on the Joint Strike Fighter aircraft program under subsection (a) shall include the following with respect to system development and demonstration under the program:

(1) The extent to which such system development and demonstration is meeting established goals, including the goals established for performance, cost, and schedule.

(2) The plan for such system development and demonstration (leading to production) for the fiscal year that begins in the year in which the report is submitted.

(3) The Comptroller General's conclusion regarding whether such system development and demonstration (leading to production) is likely to be completed at a total cost not in excess of the amount specified (or to be specified) for such purpose in the Selected Acquisition report for the Joint Strike Fighter aircraft program under section 2432 of title 10, United States Code, for the first quarter of the fiscal year during which the report of the Comptroller General is submitted.

(c) REQUIREMENT TO SUPPORT ANNUAL GAO REVIEW.—The Secretary of Defense and the prime contractor for the Joint Strike Fighter aircraft program shall provide to the Comptroller General such information on that program as the Comptroller General considers necessary to carry out the responsibilities of the Comptroller General under this section, including such information as is necessary for the purposes of subsection (b)(3).

(d) TERMINATION.—No report is required under this section after the report that, under subsection (a), is required to be submitted not later than March 15, 2009.

**SEC. 214. AMOUNTS FOR UNITED STATES JOINT FORCES COMMAND TO BE DERIVED ONLY FROM DEFENSE-WIDE AMOUNTS.**

(a) IN GENERAL.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts**

"(a) REQUIREMENT.—Amounts for research, development, test, and evaluation for the United States Joint Forces Command shall be derived only from amounts made available to the Department of Defense for Defense-wide research, development, test, and evaluation.

"(b) SEPARATE DISPLAY IN BUDGET.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the United States Joint Forces Command shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation.".

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

"232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts.".

(c) APPLICABILITY.—Section 232 of title 10, United States Code (as added by subsection (a)) applies to fiscal years beginning with fiscal year 2007.

**SEC. 215. GLOBAL POSITIONING SYSTEM III SATELLITE.**

Not more than 80 percent of the amount authorized to be appropriated by section 201(4) and available for the purpose of research, development, test, and evaluation on the Global Positioning System III satellite may be obligated or expended for that purpose until the Secretary of Defense—

(1) completes an analysis of alternatives for the satellite and ground architectures, satellite technologies, and tactics, techniques, and procedures for the next generation global positioning system (GPS); and

(2) submits to the congressional defense committees a report on the results of the analysis, including an assessment of the results of the analysis.

**SEC. 216. INITIATION OF CONCEPT DEMONSTRATION OF GLOBAL HAWK HIGH ALTITUDE ENDURANCE UNMANNED AERIAL VEHICLE.**

Section 221(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–40) is amended by striking "March 1, 2001" and inserting "March 1, 2005".

**SEC. 217. JOINT UNMANNED COMBAT AIR SYSTEMS PROGRAM.**

(a) EXECUTIVE COMMITTEE.—(1) The Secretary of Defense shall, subject to subsection (b), establish an executive committee and require that executive committee to provide guidance and recommendations for the management of the Joint Unmanned Combat Air Systems program to the Director of the Defense Advanced Research Projects Agency and the personnel who are managing the program for such agency.

(2) The executive committee established under paragraph (1) shall be composed of the following members:

(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall chair the executive committee.

(B) The Assistant Secretary of the Navy for Research, Development, and Acquisition.

(C) The Assistant Secretary of the Air Force for Acquisition.

(D) The Deputy Chief of Naval Operations for Warfare Requirements and Programs.

(E) The Deputy Chief of Staff of the Air Force for Air and Space Operations.

(F) Any additional personnel of the Department of Defense whom the Secretary determines appropriate for membership on the executive committee.

(b) APPLICABILITY ONLY TO DARPA-MANAGED PROGRAM.—The requirements of subsection (a) apply with respect to the Joint Unmanned Combat Air Systems program only while the program is managed by the Defense Advanced Research Projects Agency.

## Subtitle C—Missile Defense Programs

**SEC. 231. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.**

(a) AUTHORITY.—Funds described in subsection (b) may, upon approval by the Secretary of Defense, be used for the development and fielding of ballistic missile defense capabilities.

(b) COVERED FUNDS.—Subsection (a) applies to funds appropriated for fiscal year 2005 or fiscal year 2006 for research, development, test, and evaluation for the Missile Defense Agency.

**SEC. 232. INTEGRATION OF PATRIOT ADVANCED CAPABILITY-3 AND MEDIUM EXTENDED AIR DEFENSE SYSTEM INTO BALLISTIC MISSILE DEFENSE SYSTEM.**

(a) RELATIONSHIP TO BALLISTIC MISSILE DEFENSE SYSTEM.—The combined program of the Department of the Army known as the Patriot Advanced Capability-3/Medium Extended Air Defense System air and missile defense program (hereinafter in this section

referred to as the "PAC–3/MEADS program") is an element of the Ballistic Missile Defense System.

(b) MANAGEMENT OF CONFIGURATION CHANGES.—The Director of the Missile Defense Agency, in consultation with the Secretary of the Army (acting through the Assistant Secretary of the Army for Acquisition, Logistics and Technology) shall ensure that any configuration change for the PAC–3/MEADS program is subject to the configuration control board processes of the Missile Defense Agency so as to ensure integration of the PAC–3/MEADS element with appropriate elements of the Ballistic Missile Defense System.

(c) REQUIRED PROCEDURES.—(1) Except as otherwise directed by the Secretary of Defense, the Secretary of the Army (acting through the Assistant Secretary of the Army for Acquisition, Logistics and Technology) may make a significant change to the baseline technical specifications or the baseline schedule for the PAC–3/MEADS program only with the concurrence of the Director of the Missile Defense Agency.

(2) With respect to a proposal by the Secretary of the Army to make a significant change to the procurement quantity (including any quantity in any future block procurement) that, as of the date of such proposal, is planned for the PAC–3/MEADS program, the Secretary of Defense shall establish—

(A) procedures for a determination of the effect of such change on Ballistic Missile Defense System capabilities and on the cost of the PAC–3/MEADS program; and

(B) procedures for review of the proposed change by all relevant commands and agencies of the Department of Defense, including determination of the concurrence or nonconcurrence of each such command and agency with respect to such proposed change.

(d) REPORT.—Not later than February 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report describing the procedures developed pursuant to subsection (c)(2).

(e) DEFINITIONS.—For purpose of this section:

(1) The term "significant change" means, with respect to the PAC–3/MEADS program, a change that would substantially alter the role or contribution of that program in the Ballistic Missile Defense System.

(2) The term "baseline technical specifications" means, with respect to the PAC–3/MEADS program, those technical specifications for that program that have been approved by the configuration control board of the Missile Defense Agency and are in effect as of the date of the review.

(3) The term "baseline schedule" means, with respect to the PAC–3/MEADS program, the development and production schedule for the PAC–3/MEADS program in effect at the time of a review of such program conducted pursuant to subsection (b) or (c)(2)(B).

**SEC. 233. COMPTROLLER GENERAL ASSESSMENTS OF BALLISTIC MISSILE DEFENSE PROGRAMS.**

Section 232(g) of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2431 note) is amended to read as follows:

"(g) COMPTROLLER GENERAL ASSESSMENT.—(1) At the conclusion of each of fiscal years 2002 through 2006, the Comptroller

General of the United States shall carry out an assessment of the extent to which the Missile Defense Agency achieved the goals established under subsection (c) for that fiscal year for each ballistic missile defense program of the Department of Defense.

"(2) Not later than February 15 of each of 2003 through 2007, 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.".

**SEC. 234. BASELINES AND OPERATIONAL TEST AND EVALUATION FOR BALLISTIC MISSILE DEFENSE SYSTEM.**

(a) TESTING CRITERIA.—Not later than February 1, 2005, the Secretary of Defense, in consultation with the Director of Operational Test and Evaluation, shall prescribe appropriate criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense spiral development program. The Secretary shall submit a copy of the prescribed criteria to the congressional defense committees.

(b) USE OF CRITERIA.—(1) The Secretary of Defense shall ensure that, not later than October 1, 2005, a test of the ballistic missile defense system is conducted consistent with the criteria prescribed under subsection (a).

(2) The Secretary of Defense shall ensure that each block configuration of the ballistic missile defense system is tested consistent with the criteria prescribed under subsection (a).

(c) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to exempt any spiral development program of the Department of Defense, after completion of the spiral development, from the applicability of any provision of chapter 144 of title 10, United States Code, or section 139, 181, 2366, 2399, or 2400 of such title in accordance with the terms and conditions of such provision.

(d) EVALUATION.—(1) The Director of Operational Test and Evaluation shall evaluate the results of each test conducted under subsection (a) as soon as practicable after the completion of such test.

(2) The Director shall submit to the Secretary of Defense and the congressional defense committees a report on the evaluation of each test conducted under subsection (a) upon completion of the evaluation of such test under paragraph (1).

(e) COST, SCHEDULE, AND PERFORMANCE BASELINES.—(1) The Director of the Missile Defense Agency shall establish cost, schedule, and performance baselines for each block configuration of the Ballistic Missile Defense System being fielded. The cost baseline for a block configuration shall include full life cycle costs for the block configuration.

(2) The Director shall include the baselines established under paragraph (1) in the first Selected Acquisition Report for the Ballistic Missile Defense System that is submitted to Congress under section 2432 of title 10, United States Code, after the establishment of such baselines.

(3) The Director shall also include in the Selected Acquisition Report submitted to Congress under paragraph (2) the significant assumptions used in determining the performance baseline under paragraph (1), including any assumptions regarding threat missile countermeasures and decoys.

(f) VARIATIONS AGAINST BASELINES.—In the event the cost, schedule, or performance of any block configuration of the Ballistic Missile Defense System varies significantly (as determined by the Director of the Ballistic Missile Defense Agency) from the applicable baseline established under subsection (d), the Director shall include such variation, and the reasons for such variation, in the Selected Acquisition Report submitted to Congress under section 2432 of title 10, United States Code.

(g) MODIFICATIONS OF BASELINES.—In the event the Director of the Missile Defense Agency elects to undertake any modification of a baseline established under subsection (d), the Director shall submit to the congressional defense committees a report setting forth the reasons for such modification.

## Subtitle D—Other Matters

**SEC. 241. ANNUAL REPORT ON SUBMARINE TECHNOLOGY INSERTION.**

(a) REPORT REQUIRED.—(1) For each of fiscal years 2006, 2007, 2008, and 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the submarine technologies that are available or potentially available for insertion in submarines of the Navy to reduce the production and operating costs of the submarines while maintaining or improving the effectiveness of the submarines.

(2) The annual report for a fiscal year under paragraph (1) shall be submitted at the same time that the President submits to Congress the budget for that fiscal year under section 1105(a) of title 31, United States Code.

(b) CONTENT.—The report on submarine technologies under subsection (a) shall include, for each class of submarines of the Navy, the following matters:

(1) A list of the technologies that have been demonstrated, together with—

(A) a plan for the insertion of any such technologies that have been determined appropriate for such submarines; and

(B) the estimated cost of such technology insertions.

(2) A list of the technologies that have not been demonstrated, together with a plan for the demonstration of any such technologies that have the potential for being appropriate for such submarines.

**SEC. 242. SENSE OF CONGRESS REGARDING FUNDING OF THE ADVANCED SHIPBUILDING ENTERPRISE UNDER THE NATIONAL SHIPBUILDING RESEARCH PROGRAM OF THE NAVY.**

(a) FINDINGS.—Congress makes the following findings:

(1) The budget for fiscal year 2005, as submitted to Congress by the President, provides $10,300,000 for the Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program of the Navy.

(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency in the national technology and industrial base.

(3) The leaders of the United States shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a

method for exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all components of the industry.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that Congress—

(A) strongly supports the innovative Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program as an enterprise between the Navy and industry that has yielded new processes and techniques that reduce the cost of building and repairing ships in the United States; and

(B) is concerned that the future-years defense program of the Department of Defense that was submitted to Congress for fiscal year 2005 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2005; and

(2) that the Secretary of Defense should continue to provide in the future-years defense program for funding the Advanced Shipbuilding Enterprise at a sustaining level in order to support additional research to further reduce the cost of designing, building, and repairing ships.

# TITLE III—OPERATION AND MAINTENANCE

**Subtitle A—Authorization of Appropriations**

Sec. 301. Operation and maintenance funding.
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Sec. 341. Two-year extension of Department of Defense telecommunications benefit.
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Sec. 351. Reimbursement for certain protective, safety, or health equipment purchased by or for members of the Armed Forces deployed in contingency operations.
Sec. 352. Limitation on preparation or implementation of Mid-Range Financial Improvement Plan pending report.
Sec. 353. Pilot program to authorize Army working-capital funded facilities to engage in cooperative activities with non-Army entities.
Sec. 354. Transfer of excess Department of Defense personal property to assist firefighting agencies.

# Subtitle A—Authorization of Appropriations

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

Funds are hereby authorized to be appropriated for fiscal year 2005 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, $26,098,411,000.

(2) For the Navy, $29,682,590,000.

(3) For the Marine Corps, $3,648,115,000.

(4) For the Air Force, $28,298,660,000.

(5) For Defense-wide activities, $17,325,276,000.

(6) For the Army Reserve, $2,008,128,000.

(7) For the Naval Reserve, $1,240,038,000.

(8) For the Marine Corps Reserve, $188,696,000

(9) For the Air Force Reserve, $2,239,790,000

(10) For the Army National Guard, $4,452,786,000.

(11) For the Air National Guard, $4,503,338,000.

(12) For the United States Court of Appeals for the Armed Forces, $10,825,000.

(13) For Environmental Restoration, Army, $400,948,000.

(14) For Environmental Restoration, Navy, $266,820,000.

(15) For Environmental Restoration, Air Force, $397,368,000.

(16) For Environmental Restoration, Defense-wide, $23,684,000

(17) For Environmental Restoration, Formerly Used Defense Sites, $256,516,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(19) For Cooperative Threat Reduction programs, $409,200,000.

(20) For the Overseas Contingency Operations Transfer Fund, $10,000,000.

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

Funds are hereby authorized to be appropriated for fiscal year 2005 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, $451,886,000.

(2) For the National Defense Sealift Fund, $1,269,252,000.

(3) For the Defense Working Capital Fund, Defense Commissary, $1,175,000,000.

**SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.**

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $17,657,386,000, of which—

(1) $17,219,844,000 is for Operation and Maintenance;

(2) $72,907,000 is for Research, Development, Test, and Evaluation; and

(3) $364,635,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, in the amount of $1,371,990,000, of which—

(A) $1,088,801,000 is for Operation and Maintenance;

(B) $204,209,000 is for Research, Development, Test, and Evaluation; and

(C) $78,980,000 is for Procurement.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) 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

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of $852,947,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, in the amount of $204,562,000, of which—

(1) $202,362,000 is for Operation and Maintenance;

(2) $2,100,000 is for Procurement; and

(3) $100,000 is for Research, Development, Test, and Evaluation.

## Subtitle B—Environmental Provisions

**SEC. 311. SATISFACTION OF SUPERFUND AUDIT REQUIREMENTS BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.**

(a) SATISFACTION OF REQUIREMENTS.—The Inspector General of the Department of Defense shall be deemed to be in compliance with the requirements of section 111(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(k)) if the Inspector General conducts periodic audits of the payments, obligations, reimbursements, and other uses of the Hazardous Substance Superfund by the Department of Defense, even if such audits do not occur on an annual basis.

(b) REPORTS TO CONGRESS ON AUDITS.—The Inspector General shall submit to Congress a report on each audit conducted by the Inspector General as described in subsection (a).

**SEC. 312. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH MOSES LAKE WELLFIELD SUPERFUND SITE, MOSES LAKE, WASHINGTON.**

(a) AUTHORITY TO REIMBURSE.—(1) Using funds described in subsection (b), the Secretary of Defense may transfer not more than $524,926.54 to the Moses Lake Wellfield Superfund Site 10–6J Special Account.

(2) The payment under paragraph (1) is to reimburse the Environmental Protection Agency for its costs, including interest, incurred in overseeing a remedial investigation/feasibility study performed by the Department of the Army under the Defense Environmental Restoration Program at the former Larson Air Force Base, Moses Lake Superfund Site, Moses Lake, Washington.

(3) The reimbursement described in paragraph (2) is provided for in the interagency agreement entered into by the Department of the Army and the Environmental Protection Agency for the Moses Lake Wellfield Superfund Site in March 1999.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(17) for operation and maintenance for Environmental Restoration, Formerly Used Defense Sites.

(c) USE OF FUNDS.—The Environmental Protection Agency shall use the amount transferred under subsection (a) to pay costs incurred by the Agency at the Moses Lake Wellfield Superfund Site.

**SEC. 313. INCREASE IN AUTHORIZED AMOUNT OF ENVIRONMENTAL REMEDIATION, FRONT ROYAL, VIRGINIA.**

Section 591(a)(2) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 378) is amended by striking "$12,000,000" and inserting "$22,000,000".

**SEC. 314. SMALL BOAT HARBOR, UNALASKA, ALASKA.**

The Secretary of the Army shall carry out the small boat harbor project in Unalaska, Alaska, at a total estimated cost of $23,200,000, with an estimated Federal cost of $11,500,000 and an estimated non-Federal cost of $11,700,000, substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable

final report of the Chief for the project is completed not later than December 31, 2004.

**SEC. 315. REPORT REGARDING ENCROACHMENT ISSUES AFFECTING UTAH TEST AND TRAINING RANGE, UTAH.**

(a) REPORT REQUIRED.—The Secretary of the Air Force shall prepare a report that outlines current and anticipated encroachments on the use and utility of the special use airspace of the Utah Test and Training Range in the State of Utah, including encroachments brought about through actions of other Federal agencies. The Secretary shall include in the report such recommendations as the Secretary considers appropriate regarding any legislative initiatives necessary to address encroachment problems identified by the Secretary in the report.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit the report to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate. It is the sense of Congress that the recommendations contained in the report should be carefully considered for future legislative action.

(c) PROHIBITION ON GROUND MILITARY OPERATIONS.—Nothing in this section shall be construed to permit a military operation to be conducted on the ground in a covered wilderness study area in the Utah Test and Training Range.

(d) COMMUNICATIONS AND TRACKING SYSTEMS.—Nothing in this section shall be construed to prevent any required maintenance of existing communications, instrumentation, or electronic tracking systems (or the infrastructure supporting such systems) necessary for effective testing and training to meet military requirements in the Utah Test and Training Range.

**SEC. 316. COMPTROLLER GENERAL STUDY AND REPORT ON ALTERNATIVE TECHNOLOGIES TO DECONTAMINATE GROUNDWATER AT DEPARTMENT OF DEFENSE INSTALLATIONS.**

(a) COMPTROLLER GENERAL STUDY.—The Comptroller General shall conduct a study to determine whether cost-effective technologies are available to the Department of Defense for the cleanup of groundwater contamination at Department installations in lieu of traditional methods, such as pump and treat, used to respond to groundwater contamination.

(b) ELEMENTS OF STUDY.—In conducting the study under subsection (a), the Comptroller General shall—

(1) identify current technologies being used or field tested by the Department of Defense to treat groundwater at Department installations;

(2) identify cost-effective technologies for the cleanup of groundwater contamination that—

(A) are being researched, are under development by commercial vendors, or are available commercially and being used outside the Department; and

(B) have potential for use by the Department to address groundwater contamination;

(3) evaluate the potential benefits and limitations of using the technologies identified under paragraphs (1) and (2); and

(4) consider the barriers, such as cost, capability, or legal restrictions, to using the technologies identified under paragraph (2).

(c) REPORT REQUIRED.—Not later than April 1, 2005, 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 containing the results of the study, including information regarding the matters specified in subsection (b) and any recommendations, including recommendations for administrative or legislative action, that the Comptroller General considers appropriate.

**SEC. 317. COMPTROLLER GENERAL STUDY AND REPORT ON DRINKING WATER CONTAMINATION AND RELATED HEALTH EFFECTS AT CAMP LEJEUNE, NORTH CAROLINA.**

(a) STUDY.—The Comptroller General shall conduct a study on drinking water contamination and related health effects at Camp Lejeune, North Carolina. The study shall consist of the following:

(1) A study of the history of drinking water contamination at Camp Lejeune to determine, to the extent practical—

(A) what contamination has been found in the drinking water;

(B) the source of such contamination and when it may have begun; and

(C) what actions have been taken to address such contamination.

(2) An assessment of the study on the possible health effects associated with the drinking of contaminated drinking water at Camp Lejeune as proposed by the Agency for Toxic Substances and Disease Registry of the Department of Health and Human Services, including whether the proposed study—

(A) will address the appropriate at-risk populations;

(B) will encompass an appropriate timeframe;

(C) will consider all relevant health effects; and

(D) can be completed on an expedited basis without compromising its quality.

(b) AUTHORITY TO USE EXPERTS.—The Comptroller General may use experts in conducting the study required by subsection (a). Any such experts shall be independent, highly qualified, and knowledgeable in the matters covered by the study.

(c) PARTICIPATION BY OTHER INTERESTED PARTIES.—In conducting the study required by subsection (a), the Comptroller General shall ensure that interested parties, including individuals who lived or worked at Camp Lejeune during the period when the drinking water may have been contaminated, have the opportunity to submit information and views on the matters covered by the study.

(d) CONSTRUCTION WITH ATSDR STUDY.—The requirement under subsection (a)(2) that the Comptroller General conduct an assessment of the study proposed by the Agency for Toxic Substances and Disease Registry, as described in such subsection, may not be construed as a basis for the delay of that study. The assessment is intended to provide an independent review of the appropriateness and credibility of the study proposed by the Agency and to identify possible improvements in the plan or implementation of the study proposed by the Agency.

(e) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study required by subsection (a), including such recommendations as the

Comptroller General considers appropriate for further study or for legislative or other action.

(2) Recommendations under paragraph (1) may include recommendations for modifications or additions to the study proposed by the Agency for Toxic Substances and Disease Registry, as described in subsection (a)(2), in order to improve the study.

**SEC. 318. SENSE OF CONGRESS REGARDING PERCHLORATE CONTAMINATION OF GROUND AND SURFACE WATER FROM DEPARTMENT OF DEFENSE ACTIVITIES.**

It is the sense of Congress that the Secretary of Defense should—

(1) develop a plan for the remediation of perchlorate contamination resulting from the activities of the Department of Defense to ensure that the Department is prepared to respond quickly and appropriately once the United States establishes a drinking water standard for perchlorate;

(2) continue remediation activities for perchlorate contamination at those sites where perchlorate contamination poses an imminent and substantial endangerment to public health and welfare and where the Department is undertaking site-specific remedial action as of the date of the enactment of this Act;

(3) develop a plan for the remediation of perchlorate contamination resulting from the activities of the Department of Defense in cases in which, notwithstanding the lack of a drinking water standard for perchlorate, such contamination is present in ground or surface water at levels that the Secretary of Defense determines pose a hazard to human health; and

(4) continue the process of evaluating and prioritizing perchlorate contamination sites without waiting for the establishment of the Federal drinking water standard for perchlorate.

## Subtitle C—Workplace and Depot Issues

**SEC. 321. SIMPLIFICATION OF ANNUAL REPORTING REQUIREMENTS CONCERNING FUNDS EXPENDED FOR DEPOT MAINTENANCE AND REPAIR WORKLOADS.**

Subsection (d) of section 2466 of title 10, United States Code, is amended to read as follows:

"(d) ANNUAL REPORT AND REVIEW.—(1) Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of the funds referred to in subsection (a) that was expended during the preceding fiscal year, and are projected to be expended during the current fiscal year and the ensuing fiscal year, for performance of depot-level maintenance and repair workloads by the public and private sectors.

"(2) Not later than 90 days after the date on which the Secretary submits a report under paragraph (1), the Comptroller General shall submit to Congress the Comptroller General's views on whether—

"(A) the Department of Defense complied with the requirements of subsection (a) during the preceding fiscal year covered by the report; and

"(B) the expenditure projections for the current fiscal year and the ensuing fiscal year are reasonable.".

**SEC. 322. REPEAL OF ANNUAL REPORTING REQUIREMENT CONCERNING MANAGEMENT OF DEPOT EMPLOYEES.**

(a) REPEAL.—Section 2472 of title 10, United States Code, is amended—

(1) by striking "(a) PROHIBITION ON MANAGEMENT BY END STRENGTH.—"; and

(2) by striking subsection (b).

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

**"§ 2472. Prohibition on management of depot employees by end strength".**

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2472 and inserting the following new item:

"2472. Prohibition on management of depot employees by end strength.".

**SEC. 323. EXTENSION OF SPECIAL TREATMENT FOR CERTAIN EXPENDITURES INCURRED IN OPERATION OF CENTERS OF INDUSTRIAL AND TECHNICAL EXCELLENCE.**

Section 2474(f)(1) of title 10, United States Code, is amended by striking "through 2006" and inserting "through 2009".

**SEC. 324. TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.**

(a) CONDITIONAL EXTENSION OF AUTHORITY.—Subsection (c) of section 332 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2513) is amended—

(1) by inserting "(1)" after "AUTHORITY.—"; and

(2) by striking "at the end of the three-year period" and all that follows through the period at the end of the subsection and inserting the following: "at the end of September 30, 2006, except that such authority shall not be in effect after December 1, 2005, if the Secretary fails to submit to Congress the plan required by subsection (d)(4), until the date on which the Secretary submits the plan.

"(2) No security-guard functions may be performed under any contract entered into using the authority provided under this section during any period in which the authority for contractor performance of security-guard functions under this section is not in effect under paragraph (1). The term of any contract entered into using such authority may not extend beyond September 30, 2006.".

(b) REAFFIRMATION AND REVISION OF REPORTING REQUIREMENT.—Subsection (d) of such section is amended to read as follows:

"(d) REPORT AND PLAN REQUIRED.—Not later than December 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report that—

"(1) identifies each contract for the performance of security-guard functions entered into on or before September 30, 2004,

pursuant to the authority provided by subsection (a), including information regarding—

"(A) each installation at which such security-guard functions are performed or are to be performed;

"(B) the period and amount of such contract;

"(C) the number of security guards employed or to be employed under such contract;

"(D) whether the contract was awarded pursuant to full and open competition; and

"(E) the actions taken or to be taken within the Department of Defense to ensure that the conditions applicable under paragraph (1) of subsection (a) or determined under paragraph (2) of such subsection are satisfied;

"(2) identifies, for each military installation at which such authority was used or is expected to be used, any requirements for the performance of security-guard functions described in subsection (a) that are expected to continue after the date on which such authority expires;

"(3) identifies any limitation or constraint on the end strength of the civilian workforce of the Department of Defense that makes it difficult to meet requirements identified under paragraph (2) by hiring personnel as civilian employees of the Department of Defense; and

"(4) includes a plan for meeting such requirements, in a manner consistent with applicable law, on a long-term basis.".

**SEC. 325. PILOT PROGRAM FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES FOR ARMY INSTALLATIONS.**

(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Army may carry out a pilot program to procure one or more of the municipal services specified in subsection (b) for an Army installation from a county or municipality in which the installation is located for the purpose of evaluating the efficacy of procuring such services rather than providing them directly.

(b) SERVICES AUTHORIZED FOR PROCUREMENT.—Only the following services may be procured for a military installation participating in the pilot program:

(1) Refuse collection.

(2) Refuse disposal.

(3) Library services.

(4) Recreation services.

(5) Facility maintenance and repair.

(6) Utilities.

(c) PARTICIPATING INSTALLATIONS.—Not more than two Army installations may be selected to participate in the pilot program, and only installations located in the United States are eligible for selection.

(d) CONGRESSIONAL NOTIFICATION.—The Secretary may not enter into a contract under the pilot program for the procurement of municipal services until the Secretary notifies the congressional defense committees of the proposed contract and a period of 14 days elapses from the date the notification is received by the committees.

(e) IMPLEMENTATION REPORT.—(1) Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees and the Comptroller General a report describing the implementation of the pilot program, evaluating the efficacy of

procuring municipal services for participating installations from local counties or municipalities, and containing any recommendations that the Secretary considers appropriate regarding expansion or alteration of the program.

(2) The Comptroller General shall submit to the congressional defense committees an assessment of the findings and recommendations contained in the report submitted under paragraph (1).

(f) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate on September 30, 2010. Any contract entered into under the pilot program shall terminate not later than that date.

**SEC. 326. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.**

(a) TREATMENT OF AGENCY TENDER OFFICIAL AS INTERESTED PARTY.—Section 3551(2) of title 31, United States Code, is amended—

(1) by inserting "(A)" after "(2)"; and

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

"(B) The term includes the official responsible for submitting the Federal agency tender in a public-private competition conducted under Office of Management and Budget Circular A–76 regarding an activity or function of a Federal agency performed by more than 65 full-time equivalent employees of the Federal agency.".

(b) FILING OF PROTEST ON BEHALF OF FEDERAL EMPLOYEES.—Section 3552 of such title is amended—

(1) by inserting "(a)" before "A protest"; and

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

"(b)(1) In the case of an agency tender official who is an interested party under section 3551(2)(B) of this title, the official may file a protest in connection with the public-private competition for which the official is an interested party. At the request of a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to such public-private competition, the official shall file a protest in connection with such public-private competition unless the official determines that there is no reasonable basis for the protest.

"(2) The determination of an agency tender official under paragraph (1) whether or not to file a protest is not subject to administrative or judicial review. An agency tender official shall provide written notification to Congress whenever the official makes a determination under paragraph (1) that there is no reasonable basis for a protest.".

(c) INTERVENTION IN PROTEST.—Section 3553 of such title is amended by adding at the end the following new subsection:

"(g) If an interested party files a protest in connection with a public-private competition described in section 3551(2)(B) of this title, a person representing a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to the public-private competition may intervene in protest.".

(d) APPLICABILITY.—The amendments made by this section shall apply to protests filed under subchapter V of chapter 35 of title 31, United States Code, that relate to studies initiated under Office of Management and Budget Circular A–76 on or after the end of the 90-day period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—The amendments made by this section shall not be construed to authorize the use of a protest under subchapter V of chapter 35 of title 31, United States Code, with regard to a decision made by an agency tender official.

**SEC. 327. LIMITATIONS ON CONVERSION OF WORK PERFORMED BY DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES TO CONTRACTOR PERFORMANCE.**

(a) REQUIRED COST-SAVINGS THRESHOLD FOR CONVERSION.—If a public-private competition conducted under the Office of Management and Budget Circular A–76 dated May 29, 2003 (68 Fed. Reg. 32134), regarding an activity or function performed by civilian employees of the Department of Defense is required to include a formal comparison of the cost of civilian employee performance of the activity or function with the cost of contractor performance, the Secretary of Defense shall maintain the continued performance of the activity or function by civilian employees unless the competitive sourcing official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of the following:

(1) $10,000,000.

(2) 10 percent of the most efficient organization's personnel-related costs for performance of the activity or function by civilian employees.

(b) PROHIBITION ON MODIFICATION OF FUNCTIONS TO PERMIT STREAMLINED A–76 STUDY.—The Secretary of Defense shall ensure that no organization, function, or activity of the Department of Defense is consolidated, restructured, reengineered, or otherwise modified in any way for the purpose of exempting any public-private competition conducted under the Office of Management and Budget Circular A–76 dated May 29, 2003 (68 Fed. Reg. 32134), regarding a commercial or industrial type function of the Department of Defense from the requirement to formally compare, in accordance with such Circular, the cost of civilian employee performance of the function with the cost of contractor performance.

(c) EXCEPTION.—Subsection (a) does not apply in the case of a public-private competition conducted as part of the best-value source selection pilot program authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 10 U.S.C. 2461 note).

**SEC. 328. COMPETITIVE SOURCING REPORTING REQUIREMENT.**

Not later than February 1, 2005, the Inspector General of the Department of Defense shall submit to Congress a report addressing whether the Department of Defense—

(1) employs a sufficient number of adequately trained civilian employees—

(A) to conduct satisfactorily, taking into account equity, efficiency and expeditiousness, all of the public-private competitions that are scheduled to be undertaken by the Department of Defense during the next fiscal year (including a sufficient number of employees to formulate satisfactorily the performance work statements and most efficient organization plans for the purposes of such competitions); and

(B) to administer any resulting contracts; and

(2) has implemented a comprehensive and reliable system to track and assess the cost and quality of the performance of functions of the Department of Defense by service contractors.

## Subtitle D—Information Technology

### SEC. 331. PREPARATION OF DEPARTMENT OF DEFENSE PLAN FOR TRANSITION TO INTERNET PROTOCOL VERSION 6.

(a) TRANSITION PLAN REQUIRED.—The Secretary of Defense shall prepare a plan detailing the Department of Defense strategy to provide for the transition of the Department's information technology systems to Internet Protocol version 6 from the present use of Internet Protocol version 4 and other network protocols. In preparing the transition plan, the Secretary shall compare private industry plans for the transition to Internet Protocol version 6.

(b) ELEMENTS OF PLAN.—The transition plan required by subsection (a) shall include the following:

(1) An outline of the networking and security system equipment that will need to be replaced in the transition, including the timing and costs of such replacement.

(2) An assessment of how the current and new networks and security systems will be managed.

(3) An assessment of the potential impact of the transition, including an overall cost estimate for the transition and an estimate of the costs to be incurred by each of the military departments and the Defense Agencies.

(4) Any measures proposed to alleviate any adverse effects of the transition.

(c) TESTING AND EVALUATION FOR INTERNET PROTOCOL.—To determine whether a change to the use of Internet Protocol version 6 will support Department of Defense requirements, the Secretary of Defense shall provide for rigorous, real-world, end-to-end testing of Internet Protocol version 6, as proposed for use by the Department, to evaluate the following:

(1) The ability of Internet Protocol version 6, with its "best effort" quality of service, to satisfactory support the Department's multiple applications and other information technology systems, including the use of Internet Protocol version 6 over bandwidth-constrained tactical circuits.

(2) The ability of the Department's networks using Internet Protocol version 6 to respond to, and perform under, heavy loading of the core networks.

(d) REPORTS ON PLAN AND TEST RESULTS.—(1) Not later than March 31, 2005, the Secretary of Defense shall submit to the congressional defense committees a report containing the transition plan prepared under subsection (a).

(2) Not later than September 30, 2005, the Director of Operational Test and Evaluation shall submit to the congressional defense committees a report containing an update on the continuing test program and any test results.

**SEC. 332. DEFENSE BUSINESS ENTERPRISE ARCHITECTURE, SYSTEM ACCOUNTABILITY, AND CONDITIONS FOR OBLIGATION OF FUNDS FOR DEFENSE BUSINESS SYSTEM MODERNIZATION.**

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting before section 2223 the following new section:

**"§ 2222. Defense business systems: architecture, accountability, and modernization**

"(a) CONDITIONS FOR OBLIGATION OF FUNDS FOR DEFENSE BUSINESS SYSTEM MODERNIZATION.—Effective October 1, 2005, funds appropriated to the Department of Defense may not be obligated for a defense business system modernization that will have a total cost in excess of $1,000,000 unless—

"(1) the approval authority designated for the defense business system certifies to the Defense Business Systems Management Committee established by section 186 of this title that the defense business system modernization—

"(A) is in compliance with the enterprise architecture developed under subsection (c);

"(B) is necessary to achieve a critical national security capability or address a critical requirement in an area such as safety or security; or

"(C) is necessary to prevent a significant adverse effect on a project that is needed to achieve an essential capability, taking into consideration the alternative solutions for preventing such adverse effect; and

"(2) the certification by the approval authority is approved by the Defense Business Systems Management Committee.

"(b) OBLIGATION OF FUNDS IN VIOLATION OF REQUIREMENTS.—The obligation of Department of Defense funds for a business system modernization in excess of the amount specified in subsection (a) that has not been certified and approved in accordance with such subsection is a violation of section 1341(a)(1)(A) of title 31.

"(c) ENTERPRISE ARCHITECTURE FOR DEFENSE BUSINESS SYSTEMS.—Not later than September 30, 2005, the Secretary of Defense, acting through the Defense Business Systems Management Committee, shall develop—

"(1) an enterprise architecture to cover all defense business systems, and the functions and activities supported by defense business systems, which shall be sufficiently defined to effectively guide, constrain, and permit implementation of interoperable defense business system solutions and consistent with the policies and procedures established by the Director of the Office of Management and Budget, and

"(2) a transition plan for implementing the enterprise architecture for defense business systems.

"(d) COMPOSITION OF ENTERPRISE ARCHITECTURE.—The defense business enterprise architecture developed under subsection (c)(1) shall include the following:

"(1) An information infrastructure that, at a minimum, would enable the Department of Defense to—

"(A) comply with all Federal accounting, financial management, and reporting requirements;

"(B) routinely produce timely, accurate, and reliable financial information for management purposes;

"(C) integrate budget, accounting, and program information and systems; and

"(D) provide for the systematic measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

"(2) Policies, procedures, data standards, and system interface requirements that are to apply uniformly throughout the Department of Defense.

"(e) COMPOSITION OF TRANSITION PLAN.—(1) The transition plan developed under subsection (c)(2) shall include the following:

"(A) The acquisition strategy for new systems that are expected to be needed to complete the defense business enterprise architecture.

"(B) A listing of the defense business systems as of December 2, 2002 (known as 'legacy systems'), that will not be part of the objective defense business enterprise architecture, together with the schedule for terminating those legacy systems that provides for reducing the use of those legacy systems in phases.

"(C) A listing of the legacy systems (referred to in subparagraph (B)) that will be a part of the objective defense business system, together with a strategy for making the modifications to those systems that will be needed to ensure that such systems comply with the defense business enterprise architecture.

"(2) Each of the strategies under paragraph (1) shall include specific time-phased milestones, performance metrics, and a statement of the financial and nonfinancial resource needs.

"(f) APPROVAL AUTHORITIES AND ACCOUNTABILITY FOR DEFENSE BUSINESS SYSTEMS.—The Secretary of Defense shall delegate responsibility for review, approval, and oversight of the planning, design, acquisition, deployment, operation, maintenance, and modernization of defense business systems as follows:

"(1) The Under Secretary of Defense for Acquisition, Technology and Logistics shall be responsible and accountable for any defense business system the primary purpose of which is to support acquisition activities, logistics activities, or installations and environment activities of the Department of Defense.

"(2) The Under Secretary of Defense (Comptroller) shall be responsible and accountable for any defense business system the primary purpose of which is to support financial management activities or strategic planning and budgeting activities of the Department of Defense.

"(3) The Under Secretary of Defense for Personnel and Readiness shall be responsible and accountable for any defense business system the primary purpose of which is to support human resource management activities of the Department of Defense.

"(4) The Assistant Secretary of Defense for Networks and Information Integration and the Chief Information Officer of the Department of Defense shall be responsible and accountable for any defense business system the primary purpose of which is to support information technology infrastructure or information assurance activities of the Department of Defense.

"(5) The Deputy Secretary of Defense or an Under Secretary of Defense, as designated by the Secretary of Defense, shall be responsible for any defense business system the primary

purpose of which is to support any activity of the Department of Defense not covered by paragraphs (1) through (4).

"(g) DEFENSE BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The Secretary of Defense shall require each approval authority designated under subsection (f) to establish, not later than March 15, 2005, an investment review process, consistent with section 11312 of title 40, to review the planning, design, acquisition, development, deployment, operation, maintenance, modernization, and project cost benefits and risks of all defense business systems for which the approval authority is responsible. The investment review process so established shall specifically address the responsibilities of approval authorities under subsection (a).

"(2) The review of defense business systems under the investment review process shall include the following:

"(A) Review and approval by an investment review board of each defense business system as an investment before the obligation of funds on the system.

"(B) Periodic review, but not less than annually, of every defense business system investment.

"(C) Representation on each investment review board by appropriate officials from among the armed forces, combatant commands, the Joint Chiefs of Staff, and Defense Agencies.

"(D) Use of threshold criteria to ensure an appropriate level of review within the Department of Defense of, and accountability for, defense business system investments depending on scope, complexity, and cost.

"(E) Use of procedures for making certifications in accordance with the requirements of subsection (a).

"(F) Use of procedures for ensuring consistency with the guidance issued by the Secretary of Defense and the Defense Business Systems Management Committee, as required by section 186(c) of this title, and incorporation of common decision criteria, including standards, requirements, and priorities that result in the integration of defense business systems.

"(h) BUDGET INFORMATION.—In the materials that the Secretary submits to Congress in support of the budget submitted to Congress under section 1105 of title 31 for fiscal year 2006 and fiscal years thereafter, the Secretary of Defense shall include the following information:

"(1) Identification of each defense business system for which funding is proposed in that budget.

"(2) Identification of all funds, by appropriation, proposed in that budget for each such system, including—

"(A) funds for current services (to operate and maintain the system); and

"(B) funds for business systems modernization, identified for each specific appropriation.

"(3) For each such system, identification of the official to whom authority for such system is delegated under subsection (f).

"(4) For each such system, a description of each certification made under subsection (d) with regard to such system.

"(i) CONGRESSIONAL REPORTS.—Not later than March 15 of each year from 2005 through 2009, the Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense compliance with the requirements of this section. The first report shall define plans and commitments for meeting

the requirements of subsection (a), including specific milestones and performance measures. Subsequent reports shall—

"(1) describe actions taken and planned for meeting the requirements of subsection (a), including—

"(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

"(B) specific actions on the defense business system modernizations submitted for certification under such subsection;

"(2) identify the number of defense business system modernizations so certified;

"(3) identify any defense business system modernization with an obligation in excess of $1,000,000 during the preceding fiscal year that was not certified under subsection (a), and the reasons for the waiver; and

"(4) discuss specific improvements in business operations and cost savings resulting from successful defense business systems modernization efforts.

"(j) DEFINITIONS.—In this section:

"(1) The term 'approval authority', with respect to a defense business system, means the Department of Defense official responsible for the defense business system, as designated by subsection (f).

"(2) The term 'defense business system' means an information system, other than a national security system, operated by, for, or on behalf of the Department of Defense, including financial systems, mixed systems, financial data feeder systems, and information technology and information assurance infrastructure, used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

"(3) The term 'defense business system modernization' means—

"(A) the acquisition or development of a new defense business system; or

"(B) any significant modification or enhancement of an existing defense business system (other than necessary to maintain current services).

"(4) The term 'enterprise architecture' has the meaning given that term in section 3601(4) of title 44.

"(5) The terms 'information system' and 'information technology' have the meanings given those terms in section 11101 of title 40.

"(6) The term 'national security system' has the meaning given that term in section 2315 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2223 the following new item:

"2222. Defense business systems: architecture, accountability, and modernization.".

(b) DEFENSE BUSINESS SYSTEM MANAGEMENT COMMITTEE.—(1) Chapter 7 of such title is amended by adding at the end the following new section:

**"§ 186. Defense Business System Management Committee**

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Defense Business Systems Management Committee, to be composed of the following persons:

"(1) The Deputy Secretary of Defense.

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

"(3) The Under Secretary of Defense for Personnel and Readiness.

"(4) The Under Secretary of Defense (Comptroller).

"(5) The Assistant Secretary of Defense for Networks and Information Integration.

"(6) The Secretaries of the military departments and the heads of the Defense Agencies.

"(7) Such additional personnel of the Department of Defense (including personnel assigned to the Joint Chiefs of Staff and combatant commands) as are designated by the Secretary of Defense.

"(b) CHAIRMAN AND VICE CHAIRMAN.—The Deputy Secretary of Defense shall serve as the chairman of the Committee. The Secretary of Defense shall designate one of the officials specified in paragraphs (2) through (5) of subsection (a) as the vice chairman of the Committee, who shall act as chairman in the absence of the Deputy Secretary of Defense.

"(c) DUTIES.—(1) In addition to any other matters assigned to the Committee by the Secretary of Defense, the Committee shall—

"(A) recommend to the Secretary of Defense policies and procedures necessary to effectively integrate the requirements of section 2222 of this title into all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the Department of Defense;

"(B) review and approve any major update of the defense business enterprise architecture developed under subsection (b) of section 2222 of this title, including evolving the architecture, and of defense business systems modernization plans; and

"(C) manage cross-domain integration consistent with such enterprise architecture.

"(2) The Committee shall be responsible for coordinating defense business system modernization initiatives to maximize benefits and minimize costs for the Department of Defense and periodically report to the Secretary on the status of defense business system modernization efforts.

"(3) The Committee shall ensure that funds are obligated for defense business system modernization in a manner consistent with section 2222 of this title.

"(c) DEFINITIONS.—In this section, the terms 'defense business system' and 'defense business system modernization' have the meanings given such terms in section 2222 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:

"186. Defense Business System Management Committee.".

(c) IMPLEMENTATION REQUIREMENTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) complete the delegation of responsibility for the review, approval, and oversight of the planning, design, acquisition, deployment, operation, maintenance, and modernization of defense business systems required by subsection (f) of section 2222 of title 10, United States Code, as added by subsection (a)(1); and

(2) designate a vice chairman of the Defense Business System Management Committee, as required by subsection (b) of section 186 of such title, as added by subsection (b)(1).

(d) COMPTROLLER GENERAL ASSESSMENT.—Not later than 60 days after the date on which the Secretary of Defense approves the defense business enterprise architecture and transition plan developed under section 2222 of title 10, United States Code, as added by subsection (a)(1), and again each year not later than 60 days after the submission of the annual report required under subsection (i), the Comptroller General shall submit to the congressional defense committees an assessment of the extent to which the actions taken by the Department comply with the requirements of such section.

(e) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in sections 186 and 2222 of title 10, United States Code, as added by this section, shall be construed to alter the requirements of section 8083 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

(f) REPEAL OF OBSOLETE FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE REQUIREMENTS.—Section 1004 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 113 note) is repealed.

**SEC. 333. REPORT ON MATURITY AND EFFECTIVENESS OF THE GLOBAL INFORMATION GRID BANDWIDTH EXPANSION (GIG–BE).**

(a) REPORT REQUIRED.—Not later that 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on a test program to demonstrate the maturity and effectiveness of the Global Information Grid-Bandwidth Expansion (hereinafter in this section referred to as "GIG–BE").

(b) CONTENT OF REPORT.—In the report under subsection (a), the Secretary of Defense shall include the following:

(1) The Secretary's determination as to whether the results of the test program described in subsection (a) demonstrate compliance of the GIG–BE architecture with the overall goals of the GIG–BE program.

(2) Identification of—

(A) the extent to which the GIG–BE architecture does not meet the overall goals of the GIG–BE program; and

(B) the components of that architecture that are not yet sufficiently developed to achieve the overall goals of that program.

(3) A plan for achieving compliance referred to in paragraph (1), together with cost estimates for carrying out that plan.

(4) Documentation of the equipment and network configuration used in the test program to demonstrate real-world scenarios for the operation of the GIG–BE within the continental United States.

## Subtitle E—Extensions of Program Authorities

**SEC. 341. TWO-YEAR EXTENSION OF DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT.**

Section 344(c) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1448) is amended by striking "September 30, 2004" and inserting "September 30, 2006".

**SEC. 342. EXTENSION OF ARSENAL SUPPORT PROGRAM INITIATIVE.**

(a) DURATION OF PROGRAM.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 10 U.S.C. 4551 note) is amended by striking "2004" and inserting "2008".

(b) ADDITIONAL REPORT REQUIRED.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "2004" and inserting "2008"; and

(2) in paragraph (2), by striking "2003" and inserting "2007".

**SEC. 343. TWO-YEAR EXTENSION OF WARRANTY CLAIMS RECOVERY PILOT PROGRAM.**

Section 391 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2304 note) is amended—

(1) in subsection (f), by striking "September 30, 2004" and inserting "September 30, 2006"; and

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

"(g) REPORTING REQUIREMENT.—Not later than February 1, 2006, the Secretary of Defense shall submit to Congress a report on the pilot program, including—

"(1) a description of the extent to which commercial firms have been used to provide the services specified in subsection (b) and the type of services procured;

"(2) a description of any problems that have limited the ability of the Secretary to utilize the pilot program to procure such services; and

"(3) the recommendation of the Secretary regarding whether the pilot program should be made permanent or extended beyond September 30, 2006.".

## Subtitle F—Other Matters

**SEC. 351. REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONTINGENCY OPERATIONS.**

(a) REIMBURSEMENT REQUIRED.—The Secretary of Defense shall reimburse a member of the Armed Forces for the cost (including any shipping cost) of any protective, safety, or health equipment that was purchased by the member or by another person on behalf of the member for the personal use of the member in anticipation of, or during, the deployment of the member in connection with

Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom, but only if—

(1) the Secretary of Defense certifies that the protective, safety, or health equipment was critical to the protection, safety, or health of the member;

(2) the member was not issued the protective, safety, or health equipment before the member became engaged in operations in areas or situations described in section 310(a)(2) of title 37, United States Code; and

(3) the protective, safety, or health equipment was purchased by the member during the period beginning on September 11, 2001, and ending on July 31, 2004.

(b) AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, or health equipment purchased by a member of the Armed Forces may not exceed $1,100.

(c) SUBMISSION OF REIMBURSEMENT CLAIMS.—Claims for reimbursement for the cost of protective, safety, or health equipment purchased by a member of the Armed Forces shall be submitted to the Secretary of Defense under this section not later than one year after the date on which the implementing rules required by subsection (d) take effect.

(d) RULEMAKING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue rules to expedite the provision of reimbursement under subsection (a). In conducting such rulemaking, the Secretary shall address the circumstances under which the United States will assume title or ownership of any protective, safety, or health equipment for which reimbursement is made.

**SEC. 352. LIMITATION ON PREPARATION OR IMPLEMENTATION OF MID-RANGE FINANCIAL IMPROVEMENT PLAN PENDING REPORT.**

Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 for operation and maintenance may not be obligated for the purpose of preparing or implementing the Mid-Range Financial Improvement Plan until the Secretary of Defense submits to the congressional defense committees a report containing the following:

(1) A determination that the enterprise architecture for defense business systems and the transition plan for implementing the enterprise architecture have been developed, as required by subsection (c) of section 2222 of title 10, United States Code, as added by section 332(a).

(2) An explanation of the manner in which the operation and maintenance funds will be used for each of the military departments and the Defense Agencies to prepare or implement the Mid-Range Financial Improvement Plan during that fiscal year.

(3) An estimate of the costs for future fiscal years for each of the military departments and the Defense Agencies to prepare and implement the Mid-Range Financial Improvement Plan.

**SEC. 353. PILOT PROGRAM TO AUTHORIZE ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.**

(a) COOPERATIVE ARRANGEMENTS AUTHORIZED.—Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 4544. Army industrial facilities: cooperative activities with non-Army entities**

"(a) COOPERATIVE ARRANGEMENTS AUTHORIZED.—A working-capital funded Army industrial facility may enter into a contract or other cooperative arrangement with a non-Army entity to carry out with the non-Army entity a military or commercial project described in subsection (b), subject to the conditions prescribed in subsection (c).

"(b) AUTHORIZED ACTIVITIES.—A cooperative arrangement entered into by an Army industrial facility under subsection (a) may provide for any of the following activities:

"(1) The sale of articles manufactured by the facility or services performed by the facility to persons outside the Department of the Army.

"(2) The performance of work by a non-Army entity at the facility.

"(3) The performance of work by the facility for a non-Army entity.

"(4) The sharing of work by the facility and a non-Army entity.

"(5) The leasing, or use under a facilities use contract or otherwise, of the facility (including excess capacity) or equipment (including excess equipment) of the facility by a non-Army entity.

"(6) The preparation and submission of joint offers by the facility and a non-Army entity for competitive procurements entered into with Federal agency.

"(c) CONDITIONS.—An activity authorized by subsection (b) may be carried out at an Army industrial facility under a cooperative arrangement entered into under subsection (a) only under the following conditions:

"(1) In the case of an article to be manufactured or services to be performed by the facility, the articles can be substantially manufactured, or the services can be substantially performed, by the facility without subcontracting for more than incidental performance.

"(2) The activity does not interfere with performance of—

"(A) work by the facility for the Department of Defense; or

"(B) a military mission of the facility.

"(3) The activity meets one of the following objectives:

"(A) Maximized utilization of the capacity of the facility.

"(B) Reduction or elimination of the cost of ownership of the facility.

"(C) Reduction in the cost of manufacturing or maintaining Department of Defense products at the facility.

"(D) Preservation of skills or equipment related to a core competency of the facility.

"(4) The non-Army entity agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of the activity, including any damages or injury arising out of a decision by the Secretary of the Army or the Secretary of Defense to suspend or terminate an activity, or any portion thereof, during a war or national emergency or to require the facility to perform other work or provide other services on a priority basis, except—

"(A) in any case of willful misconduct or gross negligence; and

"(B) 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 United States to comply with quality, schedule, or cost performance requirements in the contract to carry out the activity.

"(d) ARANGEMENT METHODS AND AUTHORITIES.—To establish a cooperative arrangement under subsection (a) with a non-Army entity, the approval authority described in subsection (e) for an Army industrial facility may—

"(1) enter into a firm, fixed-price contract (or, if agreed to by the non-Army entity, a cost reimbursement contract) for a sale of articles or services or use of equipment or facilities;

"(2) enter into a multiyear contract for a period not to exceed five years, unless a longer period is specifically authorized by law;

"(3) charge the non-Army entity the amounts necessary to recover the full costs of the articles or services provided, including capital improvement costs, and equipment depreciation costs associated with providing the articles, services, equipment, or facilities;

"(4) authorize the non-Army entity to use incremental funding to pay for the articles, services, or use of equipment or facilities; and

"(5) accept payment-in-kind.

"(e) APPROVAL AUTHORITY.—The authority of an Army industrial facility to enter into a cooperative arrangement under subsection (a) shall be exercised at the level of the commander of the major subordinate command of the Army that has responsibility for the facility. The commander may approve such an arrangement on a case-by-case basis or a class basis.

"(f) COMMERCIAL SALES.—Except in the case of work performed for the Department of Defense, for a contract of the Department of Defense, for foreign military sales, or for authorized foreign direct commercial sales (defense articles or defense services sold to a foreign government or international organization under export controls), a sale of articles or services may be made under this section only if the approval authority described in subsection (e) determines that the articles or services are not available from a commercial source located in the United States in the required quantity or quality, or within the time required.

"(g) EXCLUSION FROM DEPOT-LEVEL MAINTENANCE AND REPAIR PERCENTAGE LIMITATION.—Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at an Army industrial facility shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by a

non-Army entity pursuant to a cooperative arrangement entered into under subsection (a).

"(h) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed to affect the application of—

"(1) foreign military sales and the export controls provided for in sections 30 and 38 of the Arms Export Control Act (22 U.S.C. 2770 and 2778) to activities of a cooperative arrangement entered into under subsection (a); and

"(2) section 2667 of this title to leases of non-excess property in the administration of such an arrangement.

"(i) DEFINITIONS.—In this section:

"(1) The term 'Army industrial facility' includes an ammunition plant, an arsenal, a depot, and a manufacturing plant.

"(2) The term 'non-Army entity' includes the following:

"(A) A Federal agency (other than the Department of the Army).

"(B) An entity in industry or commercial sales.

"(C) A State or political subdivision of a State.

"(D) An institution of higher education or vocational training institution.

"(3) The term 'incremental funding' means a series of partial payments that—

"(A) are made as the work on manufacture or articles is being performed or services are being performed or equipment or facilities are used, as the case may be; and

"(B) result in full payment being completed as the required work is being completed.

"(4) The term 'full costs', with respect to articles or services provided under a cooperative arrangement entered into under subsection (a), means the variable costs and the fixed costs that are directly related to the production of the articles or the provision of the services.

"(5) The term 'variable costs' means the costs that are expected to fluctuate directly with the volume of sales or services provided or the use of equipment or facilities.

"(j) EXPIRATION OF AUTHORITY.—The authority to enter into a cooperative arrangement under subsection (a) expires September 30, 2009, and arrangements entered into under such subsection shall terminate not later than that date.".

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

"4544. Army industrial facilities: cooperative activities with non-Army entities.".

**SEC. 354. TRANSFER OF EXCESS DEPARTMENT OF DEFENSE PERSONAL PROPERTY TO ASSIST FIREFIGHTING AGENCIES.**

Section 2576b of title 10, United States Code, is amended—

(1) in subsection (a), by striking "may" and inserting "shall"; and

(2) in subsection (b), by striking "may" and inserting "shall".

# TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

**Subtitle A—Active Forces**

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Additional authority for increases of Army and Marine Corps active duty personnel end strengths for fiscal years 2005 through 2009.
Sec. 404. Exclusion of service academy permanent and career professors from a limitation on certain officer grade strengths.

**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 2005 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of Reserve personnel authorized to be on active duty for operational support.
Sec. 416. Accounting and management of reserve component personnel performing active duty or full-time National Guard duty for operational support.

**Subtitle C—Authorizations of Appropriations**

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

## Subtitle A—Active Forces

**SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

(a) IN GENERAL.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2005, as follows:

(1) The Army, 502,400.
(2) The Navy, 365,900.
(3) The Marine Corps, 178,000.
(4) The Air Force, 359,700.

(b) LIMITATION.—(1) The authorized strength for the Army provided in paragraph (1) of subsection (a) for active duty personnel for fiscal year 2005 is subject to the condition that costs of active duty personnel of the Army for that fiscal year in excess of 482,400 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

(2) The authorized strength for the Marine Corps provided in paragraph (3) of subsection (a) for active duty personnel for fiscal year 2005 is subject to the condition that costs of active duty personnel of the Marine Corps for that fiscal year in excess of 175,000 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

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

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) For the Army, 502,400.
"(2) For the Navy, 365,900.
"(3) For the Marine Corps, 178,000.
"(4) For the Air Force, 359,700.".

**SEC. 403. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE DUTY PERSONNEL END STRENGTHS FOR FISCAL YEARS 2005 THROUGH 2009.**

(a) AUTHORITY.—During fiscal years 2005 through 2009, the Secretary of Defense is authorized to increase by up to 30,000 the end strength authorized for the Army, and by up to 9,000 the end strength authorized for the Marine Corps, above the levels authorized for those services in the National Defense Authorization Act for Fiscal Year 2004, as necessary—

(1) to support the operational mission of the Army and Marine Corps in Iraq and Afghanistan; and

(2) with respect to end strengths for the Army, to achieve transformational reorganization objectives of the Army, including objectives for increased numbers of combat brigades, unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces of the Army.

(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

(d) BUDGET TREATMENT.—(1) If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a) of this section or pursuant to a suspension of end-strength limitation under section 123a of title 10, United States Code, then the budget for the Department of Defense for such fiscal year as submitted to Congress shall specify the amounts necessary for funding the active duty end strength of the Army in excess of 482,400 and the Marine Corps in excess of 175,000 (the end strengths authorized for active duty personnel of the Army and Marine Corps, respectively, for fiscal year 2004 in paragraphs (1) and (3) of section 401 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1450)).

(2) If the amount proposed for the Department of Defense for fiscal year 2006 within budget function 050 (National Defense) includes amounts necessary for funding an active duty end strength of the Army in excess of 482,400, or an active duty end strength of the Marine Corps in excess of 175,000, for that fiscal year, the specification of amounts necessary for funding such end strength (as required under paragraph (1)) shall include the following additional information:

(A) A display of the following amounts:

(i) The amount that is to be funded out of the amounts proposed for the Department of Defense within budget function 050 (National Defense) other than out of amounts for the Army and Marine Corps.

(ii) The amount that is to be funded out of the amounts proposed for the Army and Marine Corps within budget function 050 (National Defense).

(iii) The estimated amounts that are to be funded out of emergency reserve funds and supplemental appropriations for fiscal year 2006.

(B) A detailed justification for reliance on each funding source described in subparagraph (A).

(C) A detailed discussion of which programs and plans of the Army and Marine Corps funded in the proposed budget for fiscal year 2006 must be modified if the funding sources relied on, as presented under subparagraph (A), must be changed.

(D) The projected Army and Marine Corps active duty end strengths for each of fiscal years 2006 through 2010, together with a detailed enumeration of the component costs of the projected end strengths for each such fiscal year.

**SEC. 404. EXCLUSION OF SERVICE ACADEMY PERMANENT AND CAREER PROFESSORS FROM A LIMITATION ON CERTAIN OFFICER GRADE STRENGTHS.**

Section 523(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(8) Permanent professors of the United States Military Academy and the United States Air Force Academy and professors of the United States Naval Academy who are career military professors (as defined in regulations prescribed by the Secretary of the Navy), but not to exceed 50 from any such academy.".

## 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, 2005, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 83,400.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 106,800.

(6) The Air Force Reserve, 76,100.

(7) The Coast Guard Reserve, 10,000.

(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 increased proportionately 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, 2005, 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, 26,602.

(2) The Army Reserve, 14,970.

(3) The Naval Reserve, 14,152.

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

(5) The Air National Guard of the United States, 12,253.

(6) The Air Force Reserve, 1,900.

**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 2005 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, 7,299.

(2) For the Army National Guard of the United States, 25,076.

(3) For the Air Force Reserve, 9,954.

(4) For the Air National Guard of the United States, 22,956.

**SEC. 414. FISCAL YEAR 2005 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.**

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2005, may not exceed the following:

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

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

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2005, may not exceed 795.

(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2005, may not exceed 90.

(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. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.**

During fiscal year 2005, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 10,300.

(2) The Army Reserve, 5,000.

(3) The Naval Reserve, 6,200.

(4) The Marine Corps Reserve, 2,500.

(5) The Air National Guard of the United States, 10,100.
(6) The Air Force Reserve, 3,600.

**SEC. 416. ACCOUNTING AND MANAGEMENT OF RESERVE COMPONENT PERSONNEL PERFORMING ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY FOR OPERATIONAL SUPPORT.**

(a) STRENGTH AUTHORIZATIONS.—Section 115 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting "unless on active duty pursuant to subsection (b)" after "active-duty personnel";

(2) in subsection (a)(1)(B), by inserting "unless on active duty or full-time National Guard duty pursuant to subsection (b)" after "reserve personnel";

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

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

"(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or ordered to—

"(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

"(B) full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

"(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

"(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

"(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

"(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

"(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

"(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1095 days in the previous 1460 days.

"(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

"(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

"(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (8) of subsection (i).".

(b) LIMITATION ON APPROPRIATIONS.—Subsection (c) of such section (as redesignated by subsection (a)(3)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

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

"(3) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.".

(c) AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES IN MAXIMUM STRENGTHS.—Subsection (f) of such section (as redesignated by subsection (a)(3)) is amended—

(1) by striking "END" in the heading;

(2) by striking "and" at the end of paragraph (2);

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

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

"(4) increase the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.".

(d) CONFORMING AMENDMENTS TO SECTION 115.—Such section is further amended as follows:

(1) Subsection (e) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (1), by striking "subsection (a) or (c)" and inserting "subsection (a) or (d)"; and

(B) in paragraph (2)—

(i) by striking "subsections (a) and (c)"; and inserting "subsections (a) and (d)"; and

(ii) by striking "pursuant to subsection (e)) and subsection (c)" and inserting "pursuant to subsection (f)) and subsection (d)" each place it appears.

(2) Subsection (g) (as redesignated by subsection (a)(3)) is amended by striking "subsection (e)(1)" in paragraph (2) and inserting "subsection (f)(1)".

(3) Subsection (i) (as redesignated by subsection (a)(3)) is amended to read as follows:

"(i) CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.—In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

"(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

"(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

"(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

"(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

"(5) Members of the National Guard called into Federal service under section 12406 of this title.

"(6) Members of the militia called into Federal service under chapter 15 of this title.

"(7) Members of the National Guard on full-time National Guard duty under section 502(f)(1) of title 32.

"(8) Members of reserve components on active duty for training or full-time National Guard duty for training.

"(9) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b)).

"(10) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

"(11) Members of a reserve component on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

"(12) Members of the National Guard on full-time National Guard duty for the purpose of providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.".

(e) MILITARY TO MILITARY CONTACT STRENGTH ACCOUNTING.—Subsection (f) of section 168 of such title is amended to read as follows:

"(f) ACTIVE DUTY END STRENGTHS.—A member of a reserve component who is engaged in activities authorized under this section shall not be counted for purposes of the following personnel strength limitations:

"(1) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to under this section.

"(2) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

"(3) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.".

(f) E–8 AND E–9 STRENGTH ACCOUNTING.—Subsection (a) of section 517 of such title is amended by striking "(other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve component of an armed force." and inserting "as authorized under section 115(a)(1)(B) or 115(b) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title.".

(g) FIELD GRADE OFFICER STRENGTH ACCOUNTING.—(1) Paragraph (1) of section 523(b) of such title is amended to read as follows:

(1) Reserve officers—

"(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

"(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title or under section 708 of title 32; or

"(C) on full-time National Guard duty.".

(2) Paragraph (7) of such section is amended by striking "Reserve or retired officers" and inserting "Retired officers".

(h) ACTIVE GUARD AND RESERVE FIELD GRADE OFFICER STRENGTH ACCOUNTING.—Paragraph (2) of section 12011(e) of such title is amended to read as follows:

"(2) Full-time National Guard duty (other than for training) under section 502(f) of title 32, except for duty under section 115(b)(1)(B) and (C) of this title and section 115(i)(9) of this title.".

(i) WARRANT OFFICER ACTIVE-DUTY LIST EXCLUSION.—Paragraph (1) of section 582 of such title is amended to read as follows:

"(1) Reserve warrant officers—

"(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title; or

"(B) on full-time National Guard duty.".

(j) OFFICER ACTIVE-DUTY LIST, APPLICABILITY OF CHAPTER.—Paragraph (1) of section 641 of such title is amended to read as follows:

"(1) Reserve officers—

"(A) on active duty authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

"(B) on active duty under section 3038, 5143, 5144, 8038, 10211, 10301 through 10305, 10502, 10505, 10506(a), 10506(b), 10507, or 12402 of this title or section 708 of title 32; or

"(C) on full-time National Guard duty.".

(k) STRENGTH ACCOUNTING FOR MEMBERS PERFORMING DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—Section 112 of title 32, United States Code, is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f), (g), (h) and (i) as subsections (e), (f), (g) and (h) respectively; and

(3) in paragraph (1) of subsection (e), as redesignated by paragraph (2), by striking "for a period of more than 180 days" each place it appears.

(l) REPORT.—Not later than June 1, 2005, the Secretary of Defense shall report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the Secretary's recommendations regarding the exemptions provided in paragraphs (8) through (11) by section 115(i) of title 10, United States Code, as amended by this section. The recommendations shall address the manner in personnel covered by those exemptions shall be accounted for in authorizations provided by section 115 of such title. The objective of the analysis should be to terminate the need for such exemptions after September 30, 2006.

(m) REGULATIONS.—The Secretary of Defense shall prescribe by regulation the meaning of the term "operational support" for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a).

## Subtitle C—Authorizations of Appropriations

**SEC. 421. MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2005 a total of $106,542,982,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2005.

**SEC. 422. ARMED FORCES RETIREMENT HOME.**

There is hereby authorized to be appropriated for fiscal year 2005 from the Armed Forces Retirement Home Trust Fund the sum of $61,195,000 for the operation of the Armed Forces Retirement Home.

# TITLE V—MILITARY PERSONNEL POLICY

**Subtitle A—Officer Personnel Policy**

Sec. 501. Transition of active-duty list officer force to a force of all regular officers.
Sec. 502. Repeal of requirement that Deputy Chiefs and Assistant Chiefs of Naval Operations be selected from officers in the line of the Navy.
Sec. 503. Limitation on number of officers frocked to major general and rear admiral.
Sec. 504. Distribution in grade of Marine Corps reserve officers in an active status in grades below brigadier general
Sec. 505. Authority for Federal recognition of National Guard commissioned officers appointed from former Coast Guard personnel.
Sec. 506. Study regarding promotion eligibility of retired officers recalled to active duty.
Sec. 507. Succession for office of Chief, National Guard Bureau.
Sec. 508. Redesignation of Vice Chief of the National Guard Bureau as Director of the Joint Staff of the National Guard Bureau.

**Subtitle B—Reserve Component Policy Matters**

Sec. 511. Modification of stated purpose of the reserve components.
Sec. 512. Homeland defense activities conducted by the National Guard under authority of title 32.
Sec. 513. Commission on the National Guard and Reserves.
Sec. 514. Repeal of exclusion of active duty for training from authority to order Reserves to active duty.
Sec. 515. Army program for assignment of active component advisers to units of the Selected Reserve.
Sec. 516. Authority to accept certain voluntary services.
Sec. 517. Authority to redesignate the Naval Reserve as the Navy Reserve.
Sec. 518. Comptroller General assessment of integration of active and reserve components of the Navy.
Sec. 519. Limitation on number of Starbase academies in a State.
Sec. 520. Recognition items for certain reserve component personnel.

**Subtitle C—Reserve Component Personnel Matters**

Sec. 521. Status under disability retirement system for reserve members released from active duty due to inability to perform within 30 days of call to active duty.
Sec. 522. Requirement for retention of Reserves on active duty to qualify for retired pay not applicable to nonregular service retirement system.
Sec. 523. Federal civil service military leave for Reserve and National Guard civilian technicians.
Sec. 524. Expanded educational assistance authority for officers commissioned through ROTC program at military junior colleges.
Sec. 525. Repeal of sunset provision for financial assistance program for students not eligible for advanced training.

Sec. 526. Effect of appointment or commission as officer on eligibility for Selected Reserve education loan repayment program for enlisted members.
Sec. 527. Educational assistance for certain reserve component members who perform active service.
Sec. 528. Sense of Congress on guidance concerning treatment of employer-provided compensation and other benefits voluntarily provided to employees who are activated Reservists.

**Subtitle D—Joint Officer Management and Professional Military Education**

Sec. 531. Strategic plan to link joint officer development to overall missions and goals of Department of Defense.
Sec. 532. Improvement to professional military education in the Department of Defense.
Sec. 533. Joint requirements for promotion to flag or general officer grade.
Sec. 534. Clarification of tours of duty qualifying as a joint duty assignment.
Sec. 535. Two-year extension of temporary standard for promotion policy objectives for joint officers.
Sec. 536. Two-year extension of authority to waive requirement that Reserve Chiefs and National Guard Directors have significant joint duty experience.

**Subtitle E—Military Service Academies**

Sec. 541. Revision to conditions on service of officers as service academy superintendents.
Sec. 542. Academic qualifications of the dean of the faculty of United States Air Force Academy.
Sec. 543. Board of Visitors of United States Air Force Academy.
Sec. 544. Appropriated funds for service academy athletic and recreational extracurricular programs to be treated in same manner as for military morale, welfare, and recreation programs.
Sec. 545. Codification of prohibition on imposition of certain charges and fees at the service academies.

**Subtitle F—Other Education and Training Matters**

Sec. 551. College First delayed enlistment program.
Sec. 552. Senior Reserve Officers' Training Corps and recruiter access at institutions of higher education.
Sec. 553. Tuition assistance for officers.
Sec. 554. Increased maximum period for leave of absence for pursuit of a program of education in a health care profession.
Sec. 555. Eligibility of cadets and midshipmen for medical and dental care and disability benefits.
Sec. 556. Transfer of authority to confer degrees upon graduates of the Community College of the Air Force.
Sec. 557. Change in titles of leadership positions at the Naval Postgraduate School.

**Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education**

Sec. 558. Continuation of impact aid assistance on behalf of dependents of certain members despite change in status of member.
Sec. 559. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 560. Impact aid for children with severe disabilities.

**Subtitle H—Medals and Decorations and Special Promotions and Appointments**

Sec. 561. Award of medal of honor to individual interred in the Tomb of the Unknowns as representative of casualties of a war.
Sec. 562. Plan for revised criteria and eligibility requirements for award of Combat Infantryman Badge and Combat Medical Badge for service in Korea after July 28, 1953.
Sec. 563. Authority to appoint Brigadier General Charles E. Yeager, United States Air Force (retired), to the grade of major general on the retired list.
Sec. 564. Posthumous commission of William Mitchell in the grade of major general in the Army.

**Subtitle I—Military Voting**

Sec. 566. Federal write-in ballots for absentee military voters located in the United States.
Sec. 567. Repeal of requirement to conduct electronic voting demonstration project for the Federal election to be held in November 2004.

Sec. 568. Reports on operation of Federal voting assistance program and military postal system.

**Subtitle J—Military Justice Matters**

Sec. 571. Review on how sexual offenses are covered by Uniform Code of Military Justice.
Sec. 572. Waiver of recoupment of time lost for confinement in connection with a trial.
Sec. 573. Processing of forensic evidence collection kits and acquisition of sufficient stocks of such kits.
Sec. 574. Authorities of the Judge Advocates General.

**Subtitle K—Sexual Assault in the Armed Forces**

Sec. 576. Examination of sexual assault in the Armed Forces by the Defense Task Force established to examine sexual harassment and violence at the military service academies.
Sec. 577. Department of Defense policy and procedures on prevention and response to sexual assaults involving members of the Armed Forces.

**Subtitle L—Management and Administrative Matters**

Sec. 581. Three-year extension of limitation on reductions of personnel of agencies responsible for review and correction of military records.
Sec. 582. Staffing for Defense Prisoner of War/Missing Personnel Office (DPMO).
Sec. 583. Permanent ID cards for retiree dependents age 75 and older.
Sec. 584. Authority to provide civilian clothing to members traveling in connection with medical evacuation.
Sec. 585. Authority to accept donation of frequent traveler miles, credits, and tickets to facilitate rest and recuperation travel of deployed members of the Armed Forces and their families.
Sec. 586. Annual report identifying reasons for discharges from the Armed Forces during preceding fiscal year.
Sec. 587. Study of blended wing concept for the Air Force.
Sec. 588. Sense of Congress regarding return of members to active duty service upon rehabilitation from service-related injuries.

**Subtitle M—Other Matters**

Sec. 591. Protection of Armed Forces personnel from retaliatory actions for communications made through the chain of command.
Sec. 592. Implementation plan for accession of persons with specialized skills.
Sec. 593. Enhanced screening methods and process improvements for recruitment of home schooled and National Guard Challenge program GED recipients.
Sec. 594. Redesignation of National Guard Challenge Program as National Guard Youth Challenge Program.
Sec. 595. Reports on certain milestones relating to Department of Defense transformation.
Sec. 596. Report on issues relating to removal of remains of persons interred in United States military cemeteries overseas.
Sec. 597. Comptroller General reports on closure of Department of Defense dependent elementary and secondary schools and commissary stores.
Sec. 598. Comptroller General report on transition assistance programs for members separating from the Armed Forces.
Sec. 599. Study on coordination of job training standards with certification standards for military occupational specialties.

# Subtitle A—Officer Personnel Policy

### SEC. 501. TRANSITION OF ACTIVE-DUTY LIST OFFICER FORCE TO A FORCE OF ALL REGULAR OFFICERS.

(a) ORIGINAL APPOINTMENTS AS COMMISSIONED OFFICERS.—(1) Section 532 of title 10, United States Code, is amended by striking subsection (e).

(2) Subsection (a)(2) of such section is amended by striking "fifty-fifth birthday" and inserting "sixty-second birthday".

(3)(A) Such section is further amended by adding at the end the following new subsection:

"(f) The Secretary of Defense may waive the requirement of paragraph (1) of subsection (a) with respect to a person who has been lawfully admitted to the United States for permanent residence when the Secretary determines that the national security so requires, but only for an original appointment in a grade below the grade of major or lieutenant commander.".

(B) Section 619(d) of such title is amended by adding at the end the following new paragraph:

"(5) An officer in the grade of captain or, in the case of the Navy, lieutenant who is not a citizen of the United States.".

(4) Section 531(a) of such title is amended to read as follows:

"(a)(1) Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy shall be made by the President alone.

"(2) Original appointments in the grades of major, lieutenant colonel, and colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of lieutenant commander, commander, and captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.".

(b) REPEAL OF TOTAL STRENGTH LIMITATIONS FOR ACTIVE-DUTY REGULAR COMMISSIONED OFFICERS.—(1) Section 522 of such title is repealed.

(2) The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 522.

(c) FORCE SHAPING AUTHORITY.—(1)(A) Subchapter V of chapter 36 of such title is amended by adding at the end the following new section:

**"§ 647. Force shaping authority**

"(a) AUTHORITY.—The Secretary concerned may, solely for the purpose of restructuring an armed force under the jurisdiction of that Secretary—

"(1) discharge an officer described in subsection (b); or

"(2) transfer such an officer from the active-duty list of that armed force to the reserve active-status list of a reserve component of that armed force.

"(b) COVERED OFFICERS.—(1) The authority under this section may be exercised in the case of an officer who—

"(A) has completed not more than 5 years of service as a commissioned officer in the armed forces; or

"(B) has completed more than 5 years of service as a commissioned officer in the armed forces, but has not completed a minimum service obligation applicable to that member.

"(2) In this subsection, the term 'minimum service obligation' means the initial period of required active duty service together with any additional period of required active duty service incurred during the initial period of required active duty service.

"(c) APPOINTMENT OF TRANSFERRED OFFICERS.—An officer of the Regular Army, Regular Air Force, Regular Navy, or Regular Marine Corps who is transferred to a reserve active-status list under this section shall be discharged from the regular component concerned and appointed as a reserve commissioned officer under section 12203 of this title.

"(d) REGULATIONS.—The Secretary concerned shall prescribe regulations for the exercise of the Secretary's authority under this section.".

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

"647. Force shaping authority.".

(2) Section 1174(e)(2)(B) of such title is amended by inserting after "obligated service" the following: ", unless the member is an officer discharged or released under the authority of section 647 of this title".

(3) Section 12201(a) of such title is amended—

(A) by inserting "(1)" after "(a)";

(B) in the first sentence, by inserting ", except as provided in paragraph (2)," after "the armed force concerned and"; and

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

"(2) An officer transferred from the active-duty list of an armed force to a reserve active-status list of an armed force under section 647 of this title is not required to subscribe to the oath referred to in paragraph (1) in order to qualify for an appointment under that paragraph.".

(4) Section 12203 of such title is amended—

(A) by redesignating subsection (b) as subsection (c); and

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

"(b) Subject to the authority, direction, and control of the President, the Secretary concerned may appoint as a reserve commissioned officer any regular officer transferred from the active-duty list of an armed force to the reserve active-status list of a reserve component under section 647 of this title, notwithstanding the requirements of subsection (a).".

(5) Section 531 of such title is amended by adding at the end the following new subsection:

"(c) Subject to the authority, direction, and control of the President, an original appointment as a commissioned officer in the Regular Army, Regular Air Force, Regular Navy, or Regular Marine Corps may be made by the Secretary concerned in the case of a reserve commissioned officer upon the transfer of such officer from the reserve active-status list of a reserve component of the armed forces to the active-duty list of an armed force, notwithstanding the requirements of subsection (a).".

(d) ACTIVE-DUTY READY RESERVE OFFICERS NOT ON ACTIVE-DUTY LIST.—Section 641(1)(F) of such title is amended by striking "section 12304" and inserting "sections 12302 and 12304".

(e) ALL REGULAR OFFICER APPOINTMENTS FOR STUDENTS OF THE UNIVERSITY OF HEALTH SCIENCES.—Section 2114(b) of such title is amended by striking "Notwithstanding any other provision of law, they shall serve" in the second sentence and all that follows through "if qualified," in the third sentence and inserting "They shall be appointed as regular officers in the grade of second lieutenant or ensign and shall serve on active duty in that grade. Upon graduation they shall be required to serve on active duty".

(f) TERMINATION OF REQUIREMENT OF 6 YEARS SERVICE IN A RESERVE COMPONENT FOR NONREGULAR SERVICE RETIREMENT ELIGIBILITY.—Section 12731(a)(3) of such title is amended by inserting after "(3)" the following: "in the case of a person who completed the service requirements of paragraph (2) before the

end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005,".

(g) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

(2) The amendment made by subsection (a)(1) shall take effect on May 1, 2005.

**SEC. 502. REPEAL OF REQUIREMENT THAT DEPUTY CHIEFS AND ASSISTANT CHIEFS OF NAVAL OPERATIONS BE SELECTED FROM OFFICERS IN THE LINE OF THE NAVY.**

(a) DEPUTY CHIEFS OF NAVAL OPERATIONS.—Section 5036(a) of title 10, United States Code, is amended by striking "in the line".

(b) ASSISTANT CHIEFS OF NAVAL OPERATIONS.—Section 5037(a) of such title is amended by striking "in the line".

**SEC. 503. LIMITATION ON NUMBER OF OFFICERS FROCKED TO MAJOR GENERAL AND REAR ADMIRAL.**

Section 777(d) of title 10, United States Code, is amended—

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

(2) by striking "(d) LIMITATION ON NUMBER OF OFFICERS FROCKED TO SPECIFIED GRADES.—" and inserting the following:

"(d) LIMITATION ON NUMBER OF OFFICERS FROCKED TO SPECIFIED GRADES.—(1) The total number of brigadier generals and Navy rear admirals (lower half) on the active-duty list who are authorized as described in subsection (a) to wear the insignia for the grade of major general or rear admiral, as the case may be, may not exceed 30.".

**SEC. 504. DISTRIBUTION IN GRADE OF MARINE CORPS RESERVE OFFICERS IN AN ACTIVE STATUS IN GRADES BELOW BRIGADIER GENERAL.**

The table in section 12005(c)(1) of title 10, United States Code, is amended to read as follows:

| | |
|---|---|
| "Colonel | 2 percent |
| Lieutenant colonel | 8 percent |
| Major | 16 percent |
| Captain | 39 percent |
| First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title) | 35 percent.". |

**SEC. 505. AUTHORITY FOR FEDERAL RECOGNITION OF NATIONAL GUARD COMMISSIONED OFFICERS APPOINTED FROM FORMER COAST GUARD PERSONNEL.**

Section 305(a) of title 32, United States Code, is amended—

(1) by striking "Army, Navy, Air Force, or Marine Corps" in paragraphs (2), (3), and (4) and inserting "armed forces"; and

(2) by striking "or the United States Air Force Academy" in paragraph (5) and inserting "the United States Air Force Academy, or the United States Coast Guard Academy".

**SEC. 506. STUDY REGARDING PROMOTION ELIGIBILITY OF RETIRED OFFICERS RECALLED TO ACTIVE DUTY.**

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall carry out a study to determine whether it would be equitable for retired officers on active duty, but not on the active-duty list by reason of section 582(2) or 641(4) of title 10, United States Code, to be eligible for consideration for promotion under chapter 33A of such title, in the case of warrant officers, or chapter 36 of such title, in the case of officers other than warrant officers.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include a discussion of the Secretary's determination regarding the issue covered by the study, the rationale for the Secretary's determination, and any recommended legislation that the Secretary considers appropriate regarding that issue.

**SEC. 507. SUCCESSION FOR OFFICE OF CHIEF, NATIONAL GUARD BUREAU.**

(a) DESIGNATION OF SENIOR OFFICER IN NATIONAL GUARD BUREAU.—Section 10502 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) SUCCESSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, the senior of the two officers specified in paragraph (2) shall serve as the acting Chief of the National Guard Bureau during any period that—

"(A) there is a vacancy in the position of Chief of the National Guard Bureau; or

"(B) the Chief is unable to perform the duties of that office.

"(2) The officers specified in this paragraph are the following:

"(A) The senior officer of the Army National Guard of the United States on duty with the National Guard Bureau.

"(B) The senior officer of the Air National Guard of the United States on duty with the National Guard Bureau.".

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

**"§ 10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession".**

(2) The item relating to such section in the table of sections at the beginning of chapter 1011 of such title is amended to read as follows:

"10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession.".

(c) CONFORMING REPEAL.—Subsections (d) and (e) of section 10505 of such title are repealed.

**SEC. 508. REDESIGNATION OF VICE CHIEF OF THE NATIONAL GUARD BUREAU AS DIRECTOR OF THE JOINT STAFF OF THE NATIONAL GUARD BUREAU.**

(a) REDESIGNATION OF POSITION.—Subsection (a)(1) of section 10505 of title 10, United States Code, is amended by striking "Vice Chief of the National Guard Bureau" and inserting "Director of the Joint Staff of the National Guard Bureau".

(b) CONFORMING AMENDMENTS.—(1) Subsections (a)(3)(A), (a)(3)(B), (b), and (c) of section 10505 of title 10, United States Code, are amended by striking "Vice Chief of the National Guard Bureau" and inserting "Director of the Joint Staff of the National Guard Bureau".

(2) Subsection (a)(3)(B) of such section, as amended by paragraph (1), is further amended by striking "as the Vice Chief" and inserting "as the Director".

(3) Paragraphs (2) and (4) of subsection (a) of such section are amended by striking "Chief and Vice Chief of the National Guard Bureau" and inserting "Chief of the National Guard Bureau and the Director of the Joint Staff of the National Guard Bureau".

(4) Section 10506(a)(1) of such title is amended by striking "Chief and Vice Chief of the National Guard Bureau" and inserting "Chief of the National Guard Bureau and the Director of the Joint Staff of the National Guard Bureau".

(c) CLERICAL AMENDMENTS.—(1) The heading for section 10505 of such title is amended to read as follows:

**"§ 10505. Director of the Joint Staff of the National Guard Bureau".**

(2) The item relating to such section in the table of sections at the beginning of chapter 1011 of such title is amended to read as follows:

"10505. Director of the Joint Staff of the National Guard Bureau.".

(d) OTHER REFERENCES.—Any reference in any law, regulation, document, paper, or other record of the United States to the Vice Chief of the National Guard Bureau shall be deemed to be a reference to the Director of the Joint Staff of the National Guard Bureau.

# Subtitle B—Reserve Component Policy Matters

**SEC. 511. MODIFICATION OF STATED PURPOSE OF THE RESERVE COMPONENTS.**

Section 10102 of title 10, United States Code, is amended by striking ", during" and all that follows through "planned mobilization,".

**SEC. 512. HOMELAND DEFENSE ACTIVITIES CONDUCTED BY THE NATIONAL GUARD UNDER AUTHORITY OF TITLE 32.**

(a) IN GENERAL.—(1) Title 32, United States Code, is amended by adding at the end the following new chapter:

## "CHAPTER 9—HOMELAND DEFENSE ACTIVITIES

"Sec.
"901. Definitions.
"902. Homeland defense activities: funds.
"903. Regulations.
"904. Homeland defense duty.
"905. Funding assistance.
"906. Requests for funding assistance.
"907. Relationship to State duty.
"908. Annual report.

**"§ 901. Definitions**

"In this chapter:

"(1) The term 'homeland defense activity' means an activity undertaken for the military protection of the territory or domestic population of the United States, or of infrastructure or other assets of the United States determined by the Secretary of Defense as being critical to national security, from a threat or aggression against the United States.

"(2) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

**"§ 902. Homeland defense activities: funds**

"(a) The Secretary of Defense may provide funds to a Governor to employ National Guard units or members to conduct homeland defense activities that the Secretary, determines to be necessary and appropriate for participation by the National Guard units or members, as the case may be.

**"§ 903. Regulations**

"The Secretary of Defense shall prescribe regulations to implement this chapter.

**"§ 904. Homeland defense duty**

"(a) FULL-TIME NATIONAL GUARD DUTY.—All duty performed under this chapter shall be considered to be full-time National Guard duty under section 502(f) of this title. Members of the National Guard performing full-time National Guard duty in the Active Guard and Reserve Program may support or execute homeland defense activities performed by the National Guard under this chapter.

"(b) DURATION.—The period for which a member of the National Guard performs duty under this chapter shall be limited to 180 days. The Governor of the State may, with the concurrence of the Secretary of Defense, extend the period one time for an additional 90 days to meet extraordinary circumstances.

"(c) RELATIONSHIP TO REQUIRED TRAINING.—A member of the National Guard performing duty under this chapter shall, in addition to performing such duty, participate in the training required under section 502(a) of this title. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing the duty under this chapter. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

"(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State for homeland defense activities does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the homeland defense activities that units and personnel of the National Guard of a State may perform:

"(1) The performance of the activities is not to affect adversely the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

"(2) The performance of the activities is not to degrade the military skills of the members of the National Guard performing those activities.

**"§ 905. Funding assistance**

"In the case of any homeland defense activity for which the Secretary of Defense determines under section 902 of this title that participation of units or members of the National Guard of a State is necessary and appropriate, the Secretary may provide funds to that State in an amount that the Secretary determines is appropriate for the following costs of the participation in that activity from funds available to the Department for related purposes:

"(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State.

"(2) The operation and maintenance of the equipment and facilities of the National Guard of that State.

"(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State.

**"§ 906. Requests for funding assistance**

"A Governor of a State may request funding assistance for the homeland defense activities of the National Guard of that State from the Secretary of Defense. Any such request shall include the following:

"(1) The specific intended homeland defense activities of the National Guard of that State.

"(2) An explanation of why participation of National Guard units or members, as the case may be, in the homeland defense activities is necessary and appropriate.

"(3) A certification that homeland defense activities are to be conducted at a time when the personnel involved are not in Federal service.

**"§ 907. Relationship to State duty**

"Nothing in this chapter shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform functions authorized to be performed by the National Guard by the laws of the State concerned.

**"§ 908. Annual report**

"(a) REQUIREMENT FOR REPORT.—After the end of each fiscal year, the Secretary of Defense shall submit to the congressional defense committees a report regarding any assistance provided and activities carried out under this chapter during that fiscal year. The report for a fiscal year shall be submitted not later than March 31 of the year following the year in which such fiscal year ended.

"(b) CONTENT.—The report for a fiscal year shall include the following matters:

"(1) The numbers of members of the National Guard excluded under subsection (i) of section 115 of title 10 from being counted for the purpose of end-strengths authorized pursuant to subsection (a)(1) of such section.

"(2) A description of the homeland defense activities conducted with funds provided under this chapter.

"(3) An accounting of the amount of the funds provided to each State.

"(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform homeland defense activities under this chapter.".

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

**"9. Homeland Defense Activities ..... 901".**

(b) CONFORMING AMENDMENT.—Section 115 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN FULL-TIME NATIONAL GUARD DUTY PERSONNEL EXCLUDED FROM COUNTING FOR FULL-TIME NATIONAL GUARD DUTY END STRENGTHS.—In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), persons involuntarily performing homeland defense activities under chapter 9 of title 32 shall be excluded.".

**SEC. 513. COMMISSION ON THE NATIONAL GUARD AND RESERVES.**

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the National Guard and Reserves".

(b) COMPOSITION.—(1) The Commission shall be composed of 13 members appointed as follows:

(A) Three members appointed by the chairman of the Committee on Armed Services of the Senate.

(B) Three members appointed by the chairman of the Committee on Armed Services of the House of Representatives.

(C) Two members appointed by the ranking minority member of the Committee on Armed Services of the Senate.

(D) Two members appointed by the ranking minority member of the Committee on Armed Service of the House of Representatives.

(E) Three members appointed by the Secretary of Defense.

(2) The members of the Commission shall be appointed from among persons who have knowledge and expertise in the following areas:

(A) National security.

(B) Roles and missions of any of the Armed Forces.

(C) The mission, operations, and organization of the National Guard of the United States.

(D) The mission, operations, and organization of the other reserve components of the Armed Forces.

(E) Military readiness of the Armed Forces.

(F) Personnel pay and other forms of compensation.

(G) Other personnel benefits, including health care.

(3) Members of the Commission shall be appointed for the life of the Commission. A vacancy in the membership of the Commission shall not affect the powers of the Commission, but shall be filled in the same manner as the original appointment.

(4) The Secretary of Defense shall designate a member of the Commission to be chairman of the Commission.

(c) DUTIES.—(1) The Commission shall carry out a study of the following matters:

(A) The roles and missions of the National Guard and the other reserve components of the Armed Forces.

(B) The compensation and other benefits, including health care benefits, that are provided for members of the reserve components under the laws of the United States.

(2) In carrying out the study under paragraph (1), the Commission shall do the following:

(A) Assess the current roles and missions of the reserve components and identify appropriate potential future roles and missions for the reserve components.

(B) Assess the capabilities of the reserve components and determine how the units and personnel of the reserve components may be best used to support the military operations of the Armed Forces and the achievement of national security objectives, including homeland defense, of the United States.

(C) Assess the Department of Defense plan for implementation of section 115(b) of title 10, United States Code, as added by section 404(a)(4).

(D) Assess—

(i) the current organization and structure of the National Guard and the other reserve components; and

(ii) the plans of the Department of Defense and the Armed Forces for future organization and structure of the National Guard and the other reserve components.

(E) Assess the manner in which the National Guard and the other reserve components are currently organized and funded for training and identify an organizational and funding structure for training that best supports the achievement of training objectives and operational readiness.

(F) Assess the effectiveness of the policies and programs of the National Guard and the other reserve components for achieving operational readiness and personnel readiness, including medical and personal readiness.

(G) Assess—

(i) the adequacy and appropriateness of the compensation and benefits currently provided for the members of the National Guard and the other reserve components, including the availability of health care benefits and health insurance; and

(ii) the effects of proposed changes in compensation and benefits on military careers in both the regular and the reserve components of the Armed Forces.

(H) Identify various feasible options for improving the compensation and other benefits available to the members of the National Guard and the members of the other reserve components and assess—

(i) the cost-effectiveness of such options; and

(ii) the foreseeable effects of such options on readiness, recruitment, and retention of personnel for careers in the regular and reserve components the Armed Forces.

(I) Assess the traditional military career paths for members of the National Guard and the other reserve components and identify alternative career paths that could enhance professional development.

(J) Assess the adequacy of the funding provided for the National Guard and the other reserve components for several previous fiscal years, including the funding provided for National Guard and reserve component equipment and the

funding provided for National Guard and other reserve component personnel in active duty military personnel accounts and reserve military personnel accounts.

(d) FIRST MEETING.—The Commission shall hold its first meeting not later than 30 days after the date on which all members of the Commission have been appointed.

(e) ADMINISTRATIVE AND PROCEDURAL AUTHORITIES.—(1) Sections 955, 956, 957 (other than subsection (f)), 958, and 959 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C 111 note) shall apply to the Commission, except that in applying section 957(a) of such Act to the Commission, "level IV of the Executive Schedule" shall be substituted for "level V of the Executive Schedule".

(2) The following provisions of law do not apply to the Commission:

(A) Section 3161 of title 5, United States Code.

(B) The Federal Advisory Committee Act (5 U.S.C. App.).

(f) REPORTS.—(1) Not later than three months after the first meeting of the Commission, the Commission shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth—

(A) a strategic plan for the work of the Commission;

(B) a discussion of the activities of the Commission; and

(C) any initial findings of the Commission.

(2) Not later than one year after the first meeting of the Commission, the Commission shall submit a final report to the committees of Congress referred to in paragraph (1) and to the Secretary of Defense. The final report shall include any recommendations that the Commission determines appropriate, including any recommended legislation, policies, regulations, directives, and practices.

(g) TERMINATION.—The Commission shall terminate 90 days after the date on which the final report is submitted under subsection (f)(2).

(h) ANNUAL REVIEW.—(1) The Secretary of Defense shall annually review the reserve components of the Armed Forces with regard to—

(A) the roles and missions of the reserve components; and

(B) the compensation and other benefits, including health care benefits, that are provided for members of the reserve components under the laws of the United States.

(2) The Secretary shall submit a report of the annual review, together with any comments and recommendations that the Secretary considers appropriate, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(3) The first review under paragraph (1) shall take place during fiscal year 2006.

**SEC. 514. REPEAL OF EXCLUSION OF ACTIVE DUTY FOR TRAINING FROM AUTHORITY TO ORDER RESERVES TO ACTIVE DUTY.**

(a) GENERAL AUTHORITY TO ORDER RESERVES TO ACTIVE DUTY.—Section 12301 of title 10, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking "(other than for training)";

(2) in subsection (c)—

(A) in the first sentence, by striking "(other than for training)" and inserting "as provided in subsection (a)"; and

(B) in the second sentence, by striking "ordered to active duty (other than for training)" and inserting "so ordered to active duty"; and

(3) in subsection (e), by striking "(other than for training)" and inserting "as provided in subsection (a)".

(b) READY RESERVE 24-MONTH CALLUP AUTHORITY.—Section 12302 of such title is amended by striking "(other than for training)" in subsections (a) and (c).

(c) SELECTED RESERVE AND INDIVIDUAL READY RESERVE 270-DAY CALLUP AUTHORITY.—Section 12304(a) of such title is amended by striking "(other than for training)".

(d) STANDBY RESERVE CALLUP AUTHORITY.—Section 12306 of such title is amended—

(1) in subsection (a), by striking "active duty (other than for training) only as provided in section 12301 of this title" and inserting "active duty only as provided in section 12301 of this title, but subject to the limitations in subsection (b)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "(other than for training)" and inserting "under section 12301(a) of this title"; and

(B) in paragraph (2), by striking "no other member" and all that follows through "without his consent" and inserting "notwithstanding section 12301(a) of this title, no other member in the Standby Reserve may be ordered to active duty as an individual under such section without his consent".

**SEC. 515. ARMY PROGRAM FOR ASSIGNMENT OF ACTIVE COMPONENT ADVISERS TO UNITS OF THE SELECTED RESERVE.**

(a) CHANGE IN MINIMUM NUMBER REQUIRED TO BE ASSIGNED.—Section 414(c)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 12001 note) is amended by striking "5,000" and inserting "3,500".

(b) LIMITATION ON REDUCTIONS.—Notwithstanding the amendment made by subsection (a), the Secretary of the Army may not reduce the number of active component Reserve support personnel below the number of such personnel as of the date of the enactment of this Act until the report required by subsection (c) has been submitted.

(c) REPORT.—Not later than March 31, 2005, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the support by active components of the Army for training and readiness of the Army National Guard and Army Reserve. The report shall include an evaluation and determination of each of the following:

(1) The effect on the ability of the Army to improve such training and readiness resulting from the reduction under the amendment made by subsection (a) in the minimum number of active component Reserve support personnel.

(2) The adequacy of having 3,500 members of the Army (the minimum number required under the law as so amended) assigned as active component Reserve support personnel in

order to meet emerging training requirements in the Army reserve components in connection with unit and force structure conversions and preparations for wartime deployment.

(3) The nature and effectiveness of efforts by the Army to reallocate the 3,500 personnel assigned as active component Reserve support personnel to higher priority requirements and to expand the use of reservists on active duty to meet reserve component training needs.

(4) Whether the Army is planning further reductions in the number of active component Reserve support personnel and, if so, the scope and rationale for those reductions.

(5) Whether an increase in Army reserve component full-time support personnel will be required to replace the loss of active component Reserve support personnel.

(d) DEFINITION.—In this section, the term "active component Reserve support personnel" means the active component Army personnel assigned as advisers to units of the Selected Reserve of the Ready Reserve of the Army pursuant to section 414 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 12001 note).

**SEC. 516. AUTHORITY TO ACCEPT CERTAIN VOLUNTARY SERVICES.**

Section 1588 of title 10, United States Code, is amended—

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

"(8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense."; and

(2) in subsection (f)(1), by striking "subsection (a)(3)" and inserting "paragraph (3) or (8) of subsection (a)".

**SEC. 517. AUTHORITY TO REDESIGNATE THE NAVAL RESERVE AS THE NAVY RESERVE.**

(a) AUTHORITY OF SECRETARY OF THE NAVY.—The Secretary of the Navy may, with the approval of the President, redesignate the reserve component known as the Naval Reserve as the "Navy Reserve". Any such redesignation shall be effective on a date specified by the Secretary, which date may not be earlier than the date that is 180 days after the date on which the Secretary submits recommended legislation under subsection (c).

(b) PUBLICATION OF REDESIGNATION.—If the Secretary of the Navy exercises the authority to redesignate the Naval Reserve under subsection (a), the Secretary shall promptly publish in the Federal Register and submit to the Congress notice of the redesignation, including the effective date of the redesignation.

(c) CONFORMING LEGISLATION.—If the Secretary of the Navy exercises the authority to redesignate the Naval Reserve under subsection (a), the Secretary shall submit to the Congress recommended legislation that identifies each specific provision of law that refers to the Naval Reserve and sets forth an amendment to that specific provision of law to conform the reference to the new designation.

(d) REFERENCES.—If the Secretary of the Navy exercises the authority to redesignate the Naval Reserve under subsection (a), then on and after the effective date of the redesignation, any reference in any law, map, regulation, document, paper, or other record of the United States to the Naval Reserve shall be deemed to be a reference to the Navy Reserve.

**SEC. 518. COMPTROLLER GENERAL ASSESSMENT OF INTEGRATION OF ACTIVE AND RESERVE COMPONENTS OF THE NAVY.**

(a) ASSESSMENT.—The Comptroller General shall review the plan of the Secretary of the Navy for, and implementation by the Secretary of, initiatives undertaken within the Navy to improve the integration of the active and reserve components of the Navy in peacetime and wartime operations resulting from—

(1) the Naval Reserve Redesign Study carried out by the Navy; and

(2) the zero-based review of reserve component force structure undertaken by the commander of the Fleet Forces Command of the Navy during fiscal year 2004.

(b) REPORT.—No later than March 31, 2005, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review under subsection (a). The Comptroller General shall include in the report recommendations for improved active and reserve component integration in the Navy.

(c) MATTERS TO BE EXAMINED.—In conducting the review under subsection (a), the Comptroller General shall examine the following:

(1) The criteria the Navy used to determine the following with respect to integration of the active and reserve components of the Navy:

(A) The future mix of active and reserve component force structure.

(B) Organization of command and control elements.

(C) Manpower levels.

(D) Basing changes.

(2) The extent to which the plans of the Navy for improving the integration of the active and reserve components of the Navy considered each of the following:

(A) The new Fleet Response Plan of the Navy.

(B) The flexible deployment concept.

(C) Global operations.

(D) Emerging mission requirements.

(E) Other evolving initiatives.

(3) The manner in which the timing of the execution of planned active and reserve integration initiatives will correlate with the funding of those initiatives, including consideration of an evaluation of the adequacy of the funding allocated to those integration initiatives.

(4) For naval aviation forces, the extent to which the active and reserve component integration plans of the Navy will affect factors such as—

(A) common training and readiness standards for active and reserve forces;

(B) reserve component access to the same equipment as the active component;

(C) relationships between command and headquarters elements of active and reserve forces;

(D) trends in the use by the Navy of units referred to as "associate" units or "blended" units;

(E) Basing criteria of future aviation forces; and

(F) Employment of Naval Reserve aviation forces and personnel in peacetime and wartime operations.

**SEC. 519. LIMITATION ON NUMBER OF STARBASE ACADEMIES IN A STATE.**

Paragraph (3) of section 2193b(c) of title 10, United States Code, is amended to read as follows:

"(3)(A) Except as otherwise provided under subparagraph (B), the Secretary may not support the establishment in any State of more than two academies under the program.

"(B) The Secretary may support the establishment and operation of an academy in a State in excess of two academies in that State if the Secretary expressly waives, in writing, the limitation in subparagraph (A) with respect to that State. In the case of any such waiver, appropriated funds may be used for the establishment and operation of an academy in excess of two in that State only to the extent that appropriated funds are expressly available for that purpose. Any such waiver shall be made under criteria to be prescribed by the Secretary.".

**SEC. 520. RECOGNITION ITEMS FOR CERTAIN RESERVE COMPONENT PERSONNEL.**

(a) ARMY RESERVE.—(1) Chapter 1805 of title 10, United States Code, is amended by adding at the end the following new section:

### "§ 18506. Recruitment and retention: availability of funds for recognition items for Army Reserve personnel

"(a) AVAILABILITY OF FUNDS.—(1) Under regulations prescribed by the Secretary of the Army, funds authorized to be appropriated to the Army Reserve and available for recruitment and retention of military personnel may be obligated and expended for recognition items that are distributed to members of the Army Reserve and to members of their families and other individuals recognized as providing support that substantially facilitates service in the Army Reserve.

"(2) The purpose of the distribution of such items shall be to enhance the recruitment and retention of members of the Army Reserve.

"(b) PROVISION OF MEALS AND REFRESHMENTS.—For purposes of section 520c of this title and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

"(c) LIMITATION ON VALUE.—The value of items referred to in subsection (a) that are distributed to any single member of the Army Reserve at any one time may not exceed $50.

"(d) TERMINATION OF AUTHORITY.—The authority under this section shall expire December 31, 2005.".

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

"18506. Recruitment and retention: availability of funds for recognition items for Army Reserve personnel.".

(b) USE OF FUNDS TO PROMOTE RETENTION IN THE NATIONAL GUARD.—(1) Chapter 7 of title 32, United States Code, is amended by adding at the end the following new section:

**"§ 717. Presentation of recognition items for retention purposes**

"(a) EXPENDITURES FOR RECOGNITION ITEMS.—Under regulations prescribed by the Secretary of the Army and the Secretary of the Air Force, funds appropriated for the Army National Guard or Air National Guard for the purpose of recruitment and retention of military personnel may be expended to procure recognition items of nominal or modest value for retention purposes and to present such items to members of the National Guard and to members of their families and other individuals recognized as providing support that substantially facilitates service in the National Guard.

"(b) PROVISION OF MEALS AND REFRESHMENTS.—For purposes of section 520c of title 10 and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

"(c) RELATION TO OTHER LAW.—The authority provided in this section is in addition to other provision of law authorizing the use of appropriations for recruitment and retention purposes.

"(d) DEFINITION.—The term 'recognition items of nominal or modest value' means commemorative coins, medals, trophies, badges, flags, posters, paintings, or other similar items that are valued at less than $50 per item and are designed to recognize or commemorate service in the armed forces or National Guard.

"(e) TERMINATION OF AUTHORITY.—The authority under this section shall expire December 31, 2005.".

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

"717. Presentation of recognition items for retention purposes.".

(c) EFFECTIVE DATE.—Section 18506 of title 10, United States Code, as added by subsection (a), and section 717 of title 32, United States Code, as added by subsection (b), shall take effect as of November 24, 2003, and as if included in the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

# Subtitle C—Reserve Component Personnel Matters

**SEC. 521. STATUS UNDER DISABILITY RETIREMENT SYSTEM FOR RESERVE MEMBERS RELEASED FROM ACTIVE DUTY DUE TO INABILITY TO PERFORM WITHIN 30 DAYS OF CALL TO ACTIVE DUTY.**

(a) IN GENERAL.—Chapter 61 of title 10, United States Code, is amended by inserting after section 1206 the following new section:

**"§ 1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing**

"(a) MEMBERS RELEASED FROM ACTIVE DUTY WITHIN 30 DAYS.—A member of a reserve component who is ordered to active duty for a period of more than 30 days and is released from active duty within 30 days of commencing such period of active duty for a reason stated in subsection (b) shall be considered for all

purposes under this chapter to have been serving under an order to active duty for a period of 30 days or less.

"(b) APPLICABLE REASONS FOR RELEASE.—Subsection (a) applies in the case of a member released from active duty because of a failure to meet—

"(1) physical standards for retention due to a preexisting condition not aggravated during the period of active duty; or

"(2) medical or dental standards for deployment due to a preexisting condition not aggravated during the period of active duty.

"(c) SAVINGS PROVISION FOR MEDICAL CARE PROVIDED WHILE ON ACTIVE DUTY.—Notwithstanding subsection (a), any benefit under chapter 55 of this title received by a member described in subsection (a) or a dependent of such member before or during the period of active duty shall not be subject to recoupment or otherwise affected.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1206 the following new item:

"1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing.".

**SEC. 522. REQUIREMENT FOR RETENTION OF RESERVES ON ACTIVE DUTY TO QUALIFY FOR RETIRED PAY NOT APPLICABLE TO NONREGULAR SERVICE RETIREMENT SYSTEM.**

Section 12686(a) of title 10, United States Code, is amended by inserting "(other than the retirement system under chapter 1223 of this title)" after "retirement system".

**SEC. 523. FEDERAL CIVIL SERVICE MILITARY LEAVE FOR RESERVE AND NATIONAL GUARD CIVILIAN TECHNICIANS.**

Section 6323(d)(1) of title 5, United States Code is amended by striking "(other than active duty during a war or national emergency declared by the President or Congress)".

**SEC. 524. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR OFFICERS COMMISSIONED THROUGH ROTC PROGRAM AT MILITARY JUNIOR COLLEGES.**

(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary of the Army, under regulations and criteria established by the Secretary, may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

"(B) Such assistance is in addition to any financial assistance provided under paragraph (1), (3), or (4).

"(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

"(D) An officer receiving financial assistance under this paragraph shall be attached to a unit of the Army as determined by the Secretary and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

"(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

"(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

"(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.".

(b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN TROOP PROGRAM UNITS.—Section 2107a(c) of such title is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary of the Army may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

"(B) Such assistance is in addition to any provided under paragraph (1) or (2).

"(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

"(D) An officer receiving financial assistance under this paragraph shall be attached to a unit of the Army as determined by the Secretary and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

"(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

"(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

"(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.".

(c) IMPLEMENTATION REPORT.—Not later than March 31, 2007, 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 providing information on the experience of the Department of the Army under paragraph (5) of section 2107(c) of title 10, United States Code, as added by subsection (a), and under paragraph (4) of section 2107a(c) of title 10, United States Code, as added by subsection (b). The report shall include any recommendations the Secretary considers necessary for the improvement of the programs under those paragraphs.

**SEC. 525. REPEAL OF SUNSET PROVISION FOR FINANCIAL ASSISTANCE PROGRAM FOR STUDENTS NOT ELIGIBLE FOR ADVANCED TRAINING.**

Section 2103a of title 10, United States Code, is amended by striking subsection (d).

**SEC. 526. EFFECT OF APPOINTMENT OR COMMISSION AS OFFICER ON ELIGIBILITY FOR SELECTED RESERVE EDUCATION LOAN REPAYMENT PROGRAM FOR ENLISTED MEMBERS.**

Section 16301(a) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking "The Secretary" in the first sentence and inserting "Except as provided in paragraph (3), the Secretary of Defense"; and

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

"(3) In the case of a commitment made by the Secretary of Defense after the date of the enactment of this paragraph to repay a loan under paragraph (1) conditioned upon the performance by the borrower of service as an enlisted member under paragraph (2), the Secretary may repay the loan for service performed by the borrower as an officer (rather than as an enlisted member) in the case of a borrower who, after such commitment is entered into and while performing service as an enlisted member, accepts an appointment or commission as a warrant officer or commissioned officer of the Selected Reserve.".

**SEC. 527. EDUCATIONAL ASSISTANCE FOR CERTAIN RESERVE COMPONENT MEMBERS WHO PERFORM ACTIVE SERVICE.**

(a) ESTABLISHMENT OF PROGRAM.—Part IV of subtitle E of title 10, United States Code, is amended by inserting after chapter 1606 the following new chapter:

## "CHAPTER 1607—EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND CERTAIN OTHER OPERATIONS

"Sec.
"16161. Purpose.
"16162. Educational assistance program.
"16163. Eligibility for educational assistance.
"16164. Time limitation for use of entitlement.
"16165. Termination of assistance.
"16166. Administration of program.

### "§ 16161. Purpose

"The purpose of this chapter is to provide educational assistance to members of the reserve components called or ordered to active service in response to a war or national emergency declared by the President or the Congress, in recognition of the sacrifices that those members make in answering the call to duty.

### "§ 16162. Educational assistance program

"(a) PROGRAM ESTABLISHMENT.—The Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program as prescribed in this chapter to provide educational assistance to members of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned.

"(b) AUTHORIZED EDUCATION PROGRAMS.—Educational assistance may be provided under this chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38.

"(c) BENEFIT AMOUNT.—(1) The educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned, through the Secretary of Veterans Affairs, an educational assistance allowance to each member entitled to educational assistance under this chapter who is pursuing a program of education authorized under subsection (b).

"(2) The educational assistance allowance provided under this chapter shall be based on the applicable percent under paragraph (4) to the applicable rate provided under section 3015 of title 38 for a member whose entitlement is based on completion of an obligated period of active duty of three years.

"(3) The educational assistance allowance provided under this section for a person who is undertaking a program for which a reduced rate is specified in chapter 30 of title 38, that rate shall be further adjusted by the applicable percent specified in paragraph (4).

"(4) The adjusted educational assistance allowance under paragraph (2) or (3), as applicable, shall be—

"(A) 40 percent in the case of a member of a reserve component who performed active service for 90 consecutive days but less than one continuous year;

"(B) 60 percent in the case of a member of a reserve component who performed active service for one continuous year but less than two continuous years; or

"(C) 80 percent in the case of a member of a reserve component who performed active service for two continuous years or more.

"(d) MAXIMUM MONTHS OF ASSISTANCE.—(1) Subject to section 3695 of title 38, the maximum number of months of educational assistance that may be provided to any member under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

"(2)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) shall not—

"(i) be charged against the entitlement of any individual under this chapter; or

"(ii) be counted toward the aggregate period for which section 3695 of title 38 limits an individual's receipt of assistance.

"(B) The payment of the educational assistance allowance referred to in subparagraph (A) is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual—

"(i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of this title; and

"(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i), the individual's course pursuit.

"(C) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of title 38 shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to

receive credit or with respect to which the individual lost training time, as determined under subparagraph (B)(ii).

**"§ 16163. Eligibility for educational assistance**

"(a) ELIGIBILITY.—On or after September 11, 2001, a member of a reserve component is entitled to educational assistance under this chapter if the member—

"(1) served on active duty in support of a contingency operation for 90 consecutive days or more; or

"(2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full time National Guard duty under section 502(f) of title 32 for 90 consecutive days or more when authorized by the President or Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

"(b) DISABLED MEMBERS.—Notwithstanding the eligibility requirements in subsection (a), a member who was ordered to active service as prescribed under subsection (a)(1) or (a)(2) but is released from duty before completing 90 consecutive days because of an injury, illness or disease incurred or aggravated in the line of duty shall be entitled to educational assistance under this chapter at the rate prescribed in section 16162(c)(4)(A) of this title.

"(c) WRITTEN NOTIFICATION.—(1) Each member who becomes entitled to educational assistance under subsection (a) shall be given a statement in writing prior to release from active service that summarizes the provisions of this chapter and stating clearly and prominently the substance of section 16165 of this title as such section may apply to the member.

"(2) At the request of the Secretary of Veterans Affairs, the Secretary concerned shall transmit a notice of entitlement for each such member to that Secretary.

"(d) BAR FROM DUAL ELIGIBILITY.—A member who qualifies for educational assistance under this chapter may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall make an irrevocable election (in such form and manner as the Secretary of Veterans Affairs may prescribe) as to the program to which such service is to be credited.

"(e) BAR FROM DUPLICATION OF EDUCATIONAL ASSISTANCE ALLOWANCE.—(1) Except as provided in paragraph (2), an individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 1606 of this title, chapter 30, 31, 32, or 35 of title 38, or under the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under more than one such programs and shall elect (in such form and manner as the Secretary concerned may prescribe) under which program the member elects to receive educational assistance.

"(2) The restriction on duplication of educational assistance under paragraph (1) does not apply to the entitlement of educational assistance under section 16131(i) of this title.

**"§ 16164. Time limitation for use of entitlement**

"(a) DURATION OF ENTITLEMENT.—Except as provided in subsection (b), a member remains entitled to educational assistance under this chapter while serving—

"(1) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

"(2) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve).

"(b) DURATION OF ENTITLEMENT FOR DISABLED MEMBERS.—(1) In the case of a person who is separated from the Ready Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, such person's entitlement to educational assistance expires at the end of the 10-year period beginning on the date on which such person became entitled to such assistance.

"(2) The provisions of subsections (d) and (f) of section 3031 of title 38 shall apply to the period of entitlement prescribed by paragraph (1).

**"§ 16165. Termination of assistance**

"Educational assistance may not be provided under this chapter, or if being provided under this chapter, shall be terminated—

"(1) if the member is receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps program; or

"(2) when the member separates from the Ready Reserve, as provided for under section 16164(a)(1) or section 16164(a)(2), as applicable, of this title.

**"§ 16166. Administration of program**

"(a) ADMINISTRATION.—Educational assistance under this chapter shall be provided through the Department of Veterans Affairs, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Homeland Security, with the Secretary of Veterans Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Department of Veterans Affairs for the making of payments under this chapter.

"(b) PROGRAM MANAGEMENT.—Except as otherwise provided in this chapter, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran' and the term 'person', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

"(c) FLIGHT TRAINING.—The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of title 38) by an individual entitled to educational assistance under this chapter if—

"(1) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(2) the individual possesses a valid private pilot certificate and meets, on the day the member begins a course of flight training, the medical requirements necessary for a commercial pilot certificate; and

"(3) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(d) TRUST FUND.—Amounts for payments for benefits under this chapter shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.".

(b) CONFORMING AMENDMENTS.—(1) Section 2006(b) of such title is amended—

(A) in paragraph (1), by striking "chapter 1606" and inserting "chapters 1606 and 1607, including funds provided by the Secretary of Homeland Security for education liabilities for the Coast Guard when it is not operating as a service in the Department of the Navy"; and

(B) in paragraph (2)(C), by striking "for educational assistance under chapter 1606" and inserting "(including funds from the Department in which the Coast Guard is operating) for educational assistance under chapters 1606 and 1607".

(2) Section 3695(a)(5) of title 38, United States Code, is amended by inserting "1607," after "1606,".

(c) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle E of title 10, United States Code, and at the beginning of part IV of such subtitle, are amended by inserting after the item relating to chapter 1606 the following new item:

"1607. Educational Assistance for Reserve Component Members Supporting Contingency Operations and Certain Other Operations .....16161".

**SEC. 528. SENSE OF CONGRESS ON GUIDANCE CONCERNING TREATMENT OF EMPLOYER-PROVIDED COMPENSATION AND OTHER BENEFITS VOLUNTARILY PROVIDED TO EMPLOYEES WHO ARE ACTIVATED RESERVISTS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Secretary of the Treasury should provide guidance with respect to treatment under the internal revenue laws of payments made by employers to activated Reservist employees under voluntary Reserve-employee differential pay arrangements, benefits provided by employers to such employees, and contributions by employers to employer-provided retirement savings plans related thereto; and

(2) that the guidance provided under paragraph (1) should, to the extent possible within the Secretary's authority, be consistent with the goal of promoting and ensuring the validity of voluntary differential pay arrangements, benefits, and contributions referred to in that paragraph.

(b) DEFINITIONS.—For purposes of this section:

(1) VOLUNTARY RESERVE-EMPLOYEE DIFFERENTIAL PAY ARRANGEMENT.—The term "voluntary Reserve-employee differential pay arrangement" means an arrangement by which an employer of an activated Reservist employee voluntarily agrees to pay, and pays, to that employee, while on active duty, amounts equivalent to the difference (or some portion of the difference) between (A) the compensation of that employee paid by the employer at the time of the employee's

activation for such active duty, and (B) that employee's military compensation.

(2) ACTIVATED RESERVIST EMPLOYEE.—The term "activated Reservist employee" means a member of a reserve component of the Armed Forces who is on active duty under a call or order to active duty (other than for training) and who at the time of such call or order is employed in a position subject to chapter 43 of title 38, United States Code (referred to as the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)).

## Subtitle D—Joint Officer Management and Professional Military Education

### SEC. 531. STRATEGIC PLAN TO LINK JOINT OFFICER DEVELOPMENT TO OVERALL MISSIONS AND GOALS OF DEPARTMENT OF DEFENSE.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a strategic plan for joint officer management and joint professional military education that links joint officer development to the accomplishment of the overall missions and goals of the Department of Defense, as set forth in the most recent national military strategy under section 153(d) of title 10, United States Code. Such plan shall be developed for the purpose of ensuring that sufficient numbers of officers fully qualified in occupational specialties involving combat operations are available as necessary to meet the needs of the Department for qualified officers who are operationally effective in the joint environment.

(2) The Secretary shall develop the strategic plan with the advice of the Chairman of the Joint Chiefs of Staff.

(b) MATTERS TO BE INCLUDED.—As part of the strategic plan under subsection (a), the Secretary shall include the following:

(1) A statement of the levels of joint officer resources needed to be available to properly support the overall missions of the Department of Defense, with such resources to be specified by the number of officers with the joint specialty, the number of officers required for service in joint duty assignment positions, and the training and education resources required.

(2) An assessment of the available and projected joint officer development resources (including officers, educational and training resources, and availability of joint duty assignment positions and tours of duty) necessary to achieve the levels specified under paragraph (1).

(3) Identification of any problems or issues arising from linking resources for joint officer development to accomplishment of the objective of meeting the levels specified under paragraph (1) to resolve those problems and issues and plans.

(4) A description of the process for identification of the present and future requirements for joint specialty officers.

(5) A description of the career development and management of joint specialty officers and of any changes to be made to facilitate achievement of the levels of resources specified in paragraph (1), including additional education requirements, promotion opportunities, and assignments to fill joint assignments.

(6) An assessment of any problems or issues (and proposed solutions for any such problems and issues) arising from linking promotion eligibility to completion of joint professional military education.

(7) An assessment of any problems or issues (and proposed solutions for any such problems and issues) arising from linking prescribed lengths of joint duty assignments to qualification as joint specialty officers.

(8) An assessment of any problems or issues (and proposed solutions for any such problems and issues) arising from current law regarding expected rates of promotion for joint specialty officers and officers who are serving in, or have served in, joint duty assignments (other than those serving in, or who have served in, the Joint Staff and joint specialty officers).

(9) An assessment of any problems or issues (and proposed solutions for any such problems and issues) arising from current applicability of scientific and technical qualification waivers for designation as joint specialty officers.

(10) An assessment of the viability of the use of incentives (such as awarding ribbons) to any person who successfully completes a joint professional military education program of instruction.

(11) An assessment of the feasibility and utility of a comprehensive written examination as part of the evaluation criteria for selection of officers for full-time attendance at an intermediate or senior level service school.

(12) An assessment of the effects on the overall educational experience at the National Defense University of a small increase in the number of private-sector civilians eligible to enroll in instruction at the National Defense University.

(13) An assessment of the propriety and implications in providing joint specialty officer qualification to all qualifying reserve offices who have achieved the statutory prerequisites.

(c) INCLUSION OF RESERVE COMPONENT OFFICERS.—In developing the strategic plan required by subsection (a), the Secretary shall include joint officer development for officers on the reserve active-status list in the plan.

(d) REPORT.—The Secretary shall submit the plan developed under this section to the Committees on Armed Services of the Senate and House of Representatives not later than January 15, 2006.

(e) ADDITIONAL ASSESSMENT.—Not later than January 15, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, as a follow-on to the report under subsection (d), a report providing an assessment of, and initiatives to improve, the performance in joint matters of the following:

(1) Senior civilian officers and employees in the Office of the Secretary of Defense, the Defense Agencies, and the military departments.

(2) Senior noncommissioned officers.

(3) Senior leadership in the reserve components.

**SEC. 532. IMPROVEMENT TO PROFESSIONAL MILITARY EDUCATION IN THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—Part III of subtitle A of title 10, United States Code, is amended—

(1) by redesignating chapter 107 as chapter 106A; and

(2) by inserting before chapter 108 the following new chapter:

## "CHAPTER 107—PROFESSIONAL MILITARY EDUCATION

"Sec.
"2151. Definitions.
"2152. Professional military education: general requirements.
"2153. Capstone course: newly selected general and flag officers.
"2154. Joint professional military education: three-phase approach.
"2155. Joint professional military education phase II program of instruction.
"2156. Joint Forces Staff College: duration of principal course of instruction.
"2157. Annual report to Congress.

### "§ 2151. Definitions

"(a) JOINT PROFESSIONAL MILITARY EDUCATION.—Joint professional military education consists of the rigorous and thorough instruction and examination of officers of the armed forces in an environment designed to promote a theoretical and practical in-depth understanding of joint matters and, specifically, of the subject matter covered. The subject matter to be covered by joint professional military education shall include at least the following:

"(1) National Military Strategy.

"(2) Joint planning at all levels of war.

"(3) Joint doctrine.

"(4) Joint command and control.

"(5) Joint force and joint requirements development.

"(b) OTHER DEFINITIONS.—In this chapter:

"(1) The term 'senior level service school' means any of the following:

"(A) The Army War College.

"(B) The College of Naval Warfare.

"(C) The Air War College.

"(D) The Marine Corps War College.

"(2) The term 'intermediate level service school' means any of the following:

"(A) The United States Army Command and General Staff College.

"(B) The College of Naval Command and Staff.

"(C) The Air Command and Staff College.

"(D) The Marine Corps Command and Staff College.

### "§ 2152. Joint professional military education: general requirements

"(a) IN GENERAL.—The Secretary of Defense shall implement a comprehensive framework for the joint professional military education of officers, including officers nominated under section 661 of this title for the joint specialty.

### "§ 2153. Capstone course: newly selected general and flag officers

"(a) REQUIREMENT.—Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the other armed forces.

"(b) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Secretary of Defense may waive subsection (a)—

"(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

"(B) when necessary for the good of the service;

"(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

"(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

"(2) The authority of the Secretary of Defense to grant a waiver under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

**"§ 2154. Joint professional military education: three-phase approach**

"(a) THREE-PHASE APPROACH.—The Secretary of Defense shall implement a three-phase approach to joint professional military education, as follows:

"(1) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as Phase I instruction, consisting of all the elements of a joint professional military education (as specified in section 2151(a) of this title), in addition to the principal curriculum taught to all officers at an intermediate level service school.

"(2) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as Phase II instruction, consisting of a joint professional military education curriculum taught in residence at—

"(A) the Joint Forces Staff College; or

"(B) a senior level service school that has been designated and certified by the Secretary of Defense as a joint professional military education institution.

"(3) There shall be a course of instruction, designated and certified by the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff as the Capstone course, for officers selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) and offered in accordance with section 2153 of this title.

"(b) SEQUENCED APPROACH.—The Secretary shall require the sequencing of joint professional military education so that the standard sequence of assignments for such education requires an officer to complete Phase I instruction before proceeding to Phase II instruction, as provided in section 2155(a) of this title.

**"§ 2155. Joint professional military education phase II program of instruction**

"(a) PREREQUISITE OF COMPLETION OF JOINT PROFESSIONAL MILITARY EDUCATION I PROGRAM OF INSTRUCTION.—(1) After September 30, 2009, an officer of the armed forces may not be accepted

for, or assigned to, a program of instruction designated by the Secretary of Defense as joint professional military education Phase II unless the officer has successfully completed a program of instruction designated by the Secretary of Defense as joint professional military education Phase I.

"(2) The Chairman of the Joint Chiefs of Staff may grant exceptions to the requirement under paragraph (1). Such an exception may be granted only on a case-by-case basis under exceptional circumstances, as determined by the Chairman. An officer selected to receive such an exception shall have knowledge of joint matters and other aspects of the Phase I curriculum that, to the satisfaction of the Chairman, qualifies the officer to meet the minimum requirements established for entry into Phase II instruction without first completing Phase I instruction. The number of officers selected to attend an offering of the principal course of instruction at the Joint Forces Staff College or a senior level service school designated by the Secretary of Defense as a joint professional military education institution who have not completed Phase I instruction should comprise no more than 10 percent of the total number of officers selected.

"(b) PHASE II REQUIREMENTS.—The Secretary shall require that the curriculum for Phase II joint professional military education at any school—

"(1) focus on developing joint operational expertise and perspectives and honing joint warfighting skills; and

"(2) be structured —

"(A) so as to adequately prepare students to perform effectively in an assignment to a joint, multiservice organization; and

"(B) so that students progress from a basic knowledge of joint matters learned in Phase I instruction to the level of expertise necessary for successful performance in the joint arena.

"(c) CURRICULUM CONTENT.—In addition to the subjects specified in section 2151(a) of this title, the curriculum for Phase II joint professional military education shall include the following:

"(1) National security strategy.

"(2) Theater strategy and campaigning.

"(3) Joint planning processes and systems.

"(4) Joint, interagency, and multinational capabilities and the integration of those capabilities.

"(d) STUDENT RATIO; FACULTY RATIO.—Not later than September 30, 2009, for courses of instruction in a Phase II program of instruction that is offered at senior level service school that has been designated by the Secretary of Defense as a joint professional military education institution—

"(1) the percentage of students enrolled in any such course who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented; and

"(2) of the faculty at the school who are active-duty officers who provide instruction in such courses, the percentage who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented.

**"§ 2156. Joint Forces Staff College: duration of principal course of instruction**

"(a) DURATION.—The duration of the principal course of instruction offered at the Joint Forces Staff College may not be less than 10 weeks of resident instruction.

"(b) DEFINITION.—In this section, the term 'principal course of instruction' means any course of instruction offered at the Joint Forces Staff College as Phase II joint professional military education.

**"§ 2157. Annual report to Congress**

"The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps and each reserve component):

"(1) The number of officers who successfully completed a joint professional military education phase II course and were not selected for promotion.

"(2) The number of officer students and faculty members assigned by each service to the professional military schools of the other services and to the joint schools.".

(b) TRANSFER OF OTHER PROVISIONS.—Subsections (b) and (c) of section 663 of title 10, United States Code, are transferred to section 2152 of such title, as added by subsection (a), and added at the end thereof.

(c) CONFORMING AMENDMENTS.—(1) Section 663 of such title, as amended by subsection (b), is further amended—

(A) by striking subsections (a) and (e); and

(B) by striking "(d) POST-EDUCATION JOINT DUTY ASSIGNMENTS.—(1) The" and inserting "(a) JOINT SPECIALTY OFFICERS.—The";

(C) by striking "(2)(A) The Secretary" and inserting "(b) OTHER OFFICERS.—(1) The Secretary";

(D) by striking "in subparagraph (B)" and inserting "in paragraph (2)";

(E) by striking "(B) The Secretary" and inserting "(2) The Secretary"; and

(F) by striking "in subparagraph (A)" and inserting "in paragraph (1)".

(2)(A) The heading of such section is amended to read as follows:

**"§ 663. Joint duty assignments after completion of joint professional military education".**

(B) The item relating to that section in the table of sections at the beginning of chapter 38 of such title is amended to read as follows:

"663. Joint duty assignments after completion of joint professional military education.".

(d) CONFORMING REPEAL.—Section 1123(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1556) is repealed.

(e) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle

A, of title 10, United States Code, are amended by striking the item relating to chapter 107 and inserting the following:

**"106A. Educational Assistance for Persons Enlisting for Active Duty 2141**
**"107. Professional Military Education ..... 2151".**

**SEC. 533. JOINT REQUIREMENTS FOR PROMOTION TO FLAG OR GENERAL OFFICER GRADE.**

(a) EFFECTIVE DATE FOR JOINT SPECIALTY OFFICER REQUIREMENT.—Subsection (a)(2) of section 619a of title 10, United States Code, is amended by striking "September 30, 2007" and inserting "September 30, 2008".

(b) EXCEPTION TO JOINT DUTY REQUIREMENT FOR OFFICERS SERVING IN JOINT DUTY ASSIGNMENT WHEN CONSIDERED FOR PROMOTION.—Subsection (b)(4) of such section is amended by striking "if—" and all that follows through "(B) the officer's" and inserting "if the officer's".

**SEC. 534. CLARIFICATION OF TOURS OF DUTY QUALIFYING AS A JOINT DUTY ASSIGNMENT.**

(a) JOINT DUTY ASSIGNMENT LIST.—Subsection (b)(2) of section 668 of title 10, United States Code, is amended by striking "a list" in the matter preceding subparagraph (A) and inserting "a joint duty assignment list".

(b) CONSECUTIVE TOURS OF DUTY IN JOINT DUTY ASSIGNMENTS.—Subsection (c) of such section is amended by striking "within the same organization".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall not apply in the case of a joint duty assignment completed by an officer before the date of the enactment of this Act, except in the case of an officer who has continued in joint duty assignments, without a break in service in such assignments, between the end of such assignment and the date of the enactment of this Act.

**SEC. 535. TWO-YEAR EXTENSION OF TEMPORARY STANDARD FOR PROMOTION POLICY OBJECTIVES FOR JOINT OFFICERS.**

Section 662(a)(2) of title 10, United States Code, is amended by striking "December 27, 2004" in subparagraphs (A) and (B) and inserting "December 27, 2006".

**SEC. 536. TWO-YEAR EXTENSION OF AUTHORITY TO WAIVE REQUIREMENT THAT RESERVE CHIEFS AND NATIONAL GUARD DIRECTORS HAVE SIGNIFICANT JOINT DUTY EXPERIENCE.**

(a) EXTENSION.—Sections 3038(b)(4), 5143(b)(4), 5144(b)(4), 8038(b)(4), and 10506(a)(3)(D) of title 10, United States Code, are amended by striking "December 31, 2004," and inserting "December 31, 2006,".

(b) FUTURE COMPLIANCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a plan for ensuring that all officers selected after December 31, 2006, for recommendation for appointment as a Reserve chief or National Guard director have significant joint duty experience, as required by law, and may be so recommended without requirement for a wavier of such requirement. Such plan shall be developed in coordination with the Chairman of the Joint Chiefs of Staff.

# Subtitle E—Military Service Academies

**SEC. 541. REVISION TO CONDITIONS ON SERVICE OF OFFICERS AS SERVICE ACADEMY SUPERINTENDENTS.**

(a) AUTHORITY TO WAIVE REQUIREMENT THAT OFFICERS RETIRE AFTER SERVICE AS SUPERINTENDENT.—Title 10, United States Code, is amended as follows:

(1) MILITARY ACADEMY.—Section 3921 is amended—

(A) by inserting "(a) MANDATORY RETIREMENT.—" before "Upon the"; and

(B) by adding at the end the following:

"(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.".

(2) NAVAL ACADEMY.—Section 6371 is amended—

(A) by inserting "(a) MANDATORY RETIREMENT.—" before "Upon the"; and

(B) by adding at the end the following:

"(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.".

(3) AIR FORCE ACADEMY.—Section 8921 is amended—

(A) by inserting "(a) MANDATORY RETIREMENT.—" before "Upon the"; and

(B) by adding at the end the following:

"(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.".

(b) MINIMUM THREE-YEAR TOUR OF DUTY AS SUPERINTENDENT.—Title 10, United States Code, is amended as follows:

(1) MILITARY ACADEMY.—Section 4333a is amended—

(A) by inserting "(a) RETIREMENT.—" before "As a";

(B) by inserting before the period at the end the following: "pursuant to section 3921(a) of this title, unless such retirement is waived under section 3921(b) of this title"; and

(C) by adding at the end the following:

"(b) MINIMUM TOUR OF DUTY.—An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before

having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Army shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.".

(2) NAVAL ACADEMY.—Section 6951a is amended—

(A) by inserting before the period at the end of subsection (b) the following: "pursuant to section 6371(a) of this title, unless such retirement is waived under section 6371(b) of this title"; and

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

"(c) An officer who is detailed to the position of Superintendent shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Navy shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.".

(3) AIR FORCE ACADEMY.—Section 9333a is amended—

(A) by inserting "(a) RETIREMENT.—" before "As a";

(B) by inserting before the period at the end the following: "pursuant to section 8921(a) of this title, unless such retirement is waived under section 8921(b) of this title"; and

(C) by adding at the end the following:

"(b) MINIMUM TOUR OF DUTY.—An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Air Force shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.".

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

(1)(A) The heading for section 3921 is amended to read as follows:

**"§ 3921. Mandatory retirement: Superintendent of the United States Military Academy; waiver authority".**

(B) The item relating to that section in the table of sections at the beginning of chapter 367 is amended to read as follows:

"3921. Mandatory retirement: Superintendent of the United States Military Academy; waiver authority.".

(2)(A) The heading for section 6371 is amended to read as follows:

**"§ 6371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority".**

(B) The item relating to that section in the table of sections at the beginning of chapter 573 is amended to read as follows:

"6371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority.".

(3)(A) The heading for section 8921 is amended to read as follows:

**"§ 8921. Mandatory retirement: Superintendent of the United States Air Force Academy; waiver authority".**

(B) The item relating to that section in the table of sections at the beginning of chapter 867 is amended to read as follows:

"8921. Mandatory retirement: Superintendent of the United States Air Force Academy; waiver authority.".

**SEC. 542. ACADEMIC QUALIFICATIONS OF THE DEAN OF THE FACULTY OF UNITED STATES AIR FORCE ACADEMY.**

Section 9335(a) of title 10, United States Code, is amended by inserting before the period at the end of the second sentence the following: ", except that a person may not be appointed or assigned as Dean unless that person holds the highest academic degree in that person's academic field".

**SEC. 543. BOARD OF VISITORS OF UNITED STATES AIR FORCE ACADEMY.**

Section 9355 of title 10, United States Code, is amended to read as follows:

**"§ 9355. Board of Visitors**

"(a) A Board of Visitors to the Academy is constituted annually. The Board consists of the following members:

"(1) Six persons designated by the President.

"(2) The chairman of the Committee on Armed Services of the House of Representatives, or his designee.

"(3) Four persons designated by the Speaker of the House of Representatives, three of whom shall be members of the House of Representatives and the fourth of whom may not be a member of the House of Representatives.

"(4) The chairman of the Committee on Armed Services of the Senate, or his designee.

"(5) Three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate.

"(b)(1) The persons designated by the President serve for three years each except that any member whose term of office has expired

shall continue to serve until his successor is designated. The President shall designate persons each year to succeed the members designated by the President whose terms expire that year.

"(2) At least two of the members designated by the President shall be graduates of the Academy.

"(c)(1) If a member of the Board dies or resigns or is terminated as a member of the board under paragraph (2), a successor shall be designated for the unexpired portion of the term by the official who designated the member.

"(2)(A) If a member of the Board fails to attend two successive Board meetings, except in a case in which an absence is approved in advance, for good cause, by the Board chairman, such failure shall be grounds for termination from membership on the Board. A person designated for membership on the Board shall be provided notice of the provisions of this paragraph at the time of such designation.

"(B) Termination of membership on the Board under subparagraph (A)—

"(i) in the case of a member of the Board who is not a member of Congress, may be made by the Board chairman; and

"(ii) in the case of a member of the Board who is a member of Congress, may be made only by the official who designated the member.

"(C) When a member of the Board is subject to termination from membership on the Board under subparagraph (A), the Board chairman shall notify the official who designated the member. Upon receipt of such a notification with respect to a member of the Board who is a member of Congress, the official who designated the member shall take such action as that official considers appropriate.

"(d) The Board should meet at least four times a year, with at least two of those meetings at the Academy. The Board or its members may make other visits to the Academy in connection with the duties of the Board. Board meetings should last at least one full day. Board members shall have access to the Academy grounds and the cadets, faculty, staff, and other personnel of the Academy for the purposes of the duties of the Board.

"(e)(1) The Board shall inquire into the morale, discipline, and social climate, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

"(2) The Secretary of the Air Force and the Superintendent of the Academy shall provide the Board candid and complete disclosure, consistent with applicable laws concerning disclosure of information, with respect to institutional problems.

"(3) The Board shall recommend appropriate action.

"(f) The Board shall prepare a semiannual report containing its views and recommendations pertaining to the Academy, based on its meeting since the last such report and any other considerations it determines relevant. Each such report shall be submitted concurrently to the Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

"(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

"(h) While performing duties as a member of the Board, each member of the Board and each adviser shall be reimbursed under Government travel regulations for travel expenses.".

**SEC. 544. APPROPRIATED FUNDS FOR SERVICE ACADEMY ATHLETIC AND RECREATIONAL EXTRACURRICULAR PROGRAMS TO BE TREATED IN SAME MANNER AS FOR MILITARY MORALE, WELFARE, AND RECREATION PROGRAMS.**

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 4359. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds**

"(a) AUTHORITY.—In the case of an Academy mixed-funded athletic or recreational extracurricular program, the Secretary of the Army may designate funds appropriated to the Department of the Army and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds. Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

"(b) COVERED PROGRAMS.—In this section, the term 'Academy mixed-funded athletic or recreational extracurricular program' means an athletic or recreational extracurricular program of the Academy to which each of the following applies:

"(1) The program is not considered a morale, welfare, or recreation program.

"(2) The program is supported through appropriated funds.

"(3) The program is supported by a nonappropriated fund instrumentality.

"(4) The program is not a private organization and is not operated by a private organization.".

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

"4359. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 6978. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds**

"(a) AUTHORITY.—In the case of a Naval Academy mixed-funded athletic or recreational extracurricular program, the Secretary of the Navy may designate funds appropriated to the Department of the Navy and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds.

Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

"(b) COVERED PROGRAMS.—In this section, the term 'Naval Academy mixed-funded athletic or recreational extracurricular program' means an athletic or recreational extracurricular program of the Naval Academy to which each of the following applies:

"(1) The program is not considered a morale, welfare, or recreation program.

"(2) The program is supported through appropriated funds.

"(3) The program is supported by a nonappropriated fund instrumentality.

"(4) The program is not a private organization and is not operated by a private organization.".

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

"6978. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 9359. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds**

"(a) AUTHORITY.—In the case of an Academy mixed-funded athletic or recreational extracurricular program, the Secretary of the Air Force may designate funds appropriated to the Department of the Air Force and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds. Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

"(b) COVERED PROGRAMS.—In this section, the term 'Academy mixed-funded athletic or recreational extracurricular program' means an athletic or recreational extracurricular program of the Academy to which each of the following applies:

"(1) The program is not considered a morale, welfare, or recreation program.

"(2) The program is supported through appropriated funds.

"(3) The program is supported by a nonappropriated fund instrumentality.

"(4) The program is not a private organization and is not operated by a private organization.".

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

"9359. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds.".

(d) EFFECTIVE DATE AND APPLICABILITY.—Sections 4359, 6978, and 9359 of title 10, United States Code, shall apply only with respect to funds appropriated for fiscal years after fiscal year 2004.

**SEC. 545. CODIFICATION OF PROHIBITION ON IMPOSITION OF CERTAIN CHARGES AND FEES AT THE SERVICE ACADEMIES.**

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, as amended by 544(a)(1), is further amended by adding at the end the following new section:

**"§ 4360. Cadets: charges and fees for attendance; limitation**

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 544(a)(2) the following new item:

"4360. Cadets: charges and fees for attendance; limitation.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, as amended by 544(b)(1), is further amended by adding at the end the following new section:

**"§ 6979. Midshipmen: charges and fees for attendance; limitation**

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Naval Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to midshipmen for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Naval Academy in the amount of a charge or fee authorized under this subsection.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 544(b)(2) the following new item:

"6979. Midshipmen: charges and fees for attendance; limitation.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 title 10, United States Code, as amended by 544(c)(1), is further amended by adding at the end the following new section:

**"§ 9360. Cadets: charges and fees for attendance; limitation**

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made

by the Academy in the amount of a charge or fee authorized under this subsection.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 544(c)(2) the following new item:

"9360. Cadets: charges and fees for attendance; limitation.".

(d) UNITED STATES COAST GUARD ACADEMY.—(1) Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section:

**"§ 197. Cadets: charges and fees for attendance; limitation**

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Homeland Security shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.".

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

"197. Cadets: charges and fees for attendance; limitation.".

(e) UNITED STATES MERCHANT MARINE ACADEMY.—Section 1303 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b), is amended by adding at the end the following new subsection:

"(j) LIMITATION ON CHARGES AND FEES FOR ATTENDANCE.—

"(1) Except as provided in paragraph (2), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(2) The prohibition specified in paragraph (1) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Transportation shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this paragraph.".

(f) REPEAL OF CODIFIED PROVISION.—Section 553 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 4331 note) is repealed.

# Subtitle F—Other Education and Training Matters

**SEC. 551. COLLEGE FIRST DELAYED ENLISTMENT PROGRAM.**

(a) CODIFICATION AND EXTENSION OF ARMY PROGRAM.—(1) Chapter 31 of title 10, United States Code, is amended by inserting after section 510 the following new section:

**"§ 511. College First Program**

"(a) PROGRAM AUTHORITY.—The Secretary of each military department may establish a program to increase the number of, and the level of the qualifications of, persons entering the armed

forces as enlisted members by encouraging recruits to pursue higher education or vocational or technical training before entry into active service.

"(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—The Secretary concerned may—

"(1) exercise the authority under section 513 of this title—

"(A) to accept the enlistment of a person as a Reserve for service in the Selected Reserve or Individual Ready Reserve of a reserve component, notwithstanding the scope of the authority under subsection (a) of that section, in the case of the Army National Guard of the United States or Air National Guard of the United States; and

"(B) to authorize, notwithstanding the period limitation in subsection (b) of that section, a delay of the enlistment of any such person in a regular component under that subsection for the period during which the person is enrolled in, and pursuing a program of education at, an institution of higher education, or a program of vocational or technical training, on a full-time basis that is to be completed within the maximum period of delay determined for that person under subsection (c); and

"(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).

"(c) MAXIMUM PERIOD OF DELAY.—The period of delay authorized a person under paragraph (1)(B) of subsection (b) may not exceed the 30-month period beginning on the date of the person's enlistment accepted under paragraph (1)(A) of such subsection.

"(d) ALLOWANCE.—(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. The Secretary concerned may supplement that stipend by an amount not to exceed $225 per month.

"(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 this title or section 502(a) of title 32. Satisfactory performance shall be determined under regulations prescribed by the Secretary concerned.

"(4) An allowance under this section is in addition to any other pay or allowance to which a member of a reserve component is entitled by reason of participation in the Ready Reserve of that component.

"(e) 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 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 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 does not discharge that person from a debt arising under paragraph (1).

"(4) The Secretary concerned 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.

"(f) SPECIAL PAY AND BONUSES.—Upon enlisting in the regular component of the member's armed force, a person who initially enlisted as a Reserve under this section may, at the discretion of the Secretary concerned, be eligible for all regular special pays, bonuses, education benefits, and loan repayment programs.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 510 the following new item:

"511. College First Program.".

(b) CONTINUATION FOR ARMY OF PRIOR ARMY COLLEGE FIRST PROGRAM.—The Secretary of the Army shall treat the program under section 511 of title 10, United States Code, as added by subsection (a), as a continuation of the program under section 573 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 513 note), and for such purpose the Secretary may treat such section 511 as having been enacted on October 1, 2004.

**SEC. 552. SENIOR RESERVE OFFICERS' TRAINING CORPS AND RECRUITER ACCESS AT INSTITUTIONS OF HIGHER EDUCATION.**

(a) EQUAL TREATMENT OF MILITARY RECRUITERS WITH OTHER RECRUITERS.—Subsection (b)(1) of section 983 of title 10, United States Code, is amended—

(1) by striking "entry to campuses" and inserting "access to campuses"; and

(2) by inserting before the semicolon at the end the following: "in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer".

(b) PROHIBITION OF FUNDING FOR POST-SECONDARY SCHOOLS THAT PREVENT ROTC ACCESS OR MILITARY RECRUITING.—(1) Subsection (d) of such section is amended—

(A) in paragraph (1)—

(i) by striking "limitation established in subsection (a) applies" and inserting "limitations established in subsections (a) and (b) apply";

(ii) in subparagraph (B), by inserting "for any department or agency for which regular appropriations are made" after "made available"; and

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

"(C) Any funds made available for the Department of Homeland Security.

"(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

"(E) Any funds made available for the Department of Transportation.

"(F) Any funds made available for the Central Intelligence Agency."; and

(B) by striking paragraph (2).

(2)(A) Subsection (b) of such section is amended by striking "subsection (d)(2)" and inserting "subsection (d)(1)".

(B) Subsection (e) of such section is amended by inserting ", to the head of each other department and agency the funds of which are subject to the determination," after "Secretary of Education".

(c) CODIFICATION AND EXTENSION OF EXCLUSION OF AMOUNTS TO COVER INDIVIDUAL PAYMENTS.—Subsection (d) of such section, as amended by subsection (b)(1), is further amended—

(1) by striking "The" after "(1)" and inserting "Except as provided in paragraph (2), the"; and

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

"(2) Any Federal funding specified in paragraph (1) that is provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.".

(d) CONFORMING AMENDMENTS.—Subsections (a) and (b) of such section are amended by striking "(including a grant of funds to be available for student aid)".

(e) CONFORMING REPEAL OF CODIFIED PROVISION.—Section 8120 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 10 U.S.C. 983 note), is repealed.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funds appropriated for fiscal year 2005 and thereafter.

**SEC. 553. TUITION ASSISTANCE FOR OFFICERS.**

(a) AUTHORITY TO REDUCE OR WAIVE ACTIVE DUTY SERVICE OBLIGATION.—Subsection (b) of section 2007 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting "or full-time National Guard duty" after "active duty" each place it appears; and

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

"(2) Notwithstanding paragraph (1), the Secretary of the military department may reduce or waive the active duty service obligation—

"(A) in the case of a commissioned officer who is subject to mandatory separation;

"(B) in the case of a commissioned officer who has completed the period of active duty service in support of a contingency operation; or

"(C) in other exigent circumstances as determined by the Secretary.".

(b) INCREASE IN TUITION ASSISTANCE AUTHORIZED FOR ARMY OFFICERS IN THE SELECTED RESERVE.—Paragraph (1) of section

2007(c) of title 10, United States Code, is amended to read as follows:

"(1) Subject to paragraphs (2) and (3), the Secretary of the Army may pay the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for education or training of such officer.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) may, at the discretion of the Secretary concerned, be applied to a service obligation incurred by an officer serving on active duty as of the date of the enactment of this Act.

**SEC. 554. INCREASED MAXIMUM PERIOD FOR LEAVE OF ABSENCE FOR PURSUIT OF A PROGRAM OF EDUCATION IN A HEALTH CARE PROFESSION.**

Section 708(a) of title 10, United States Code, is amended—

(1) by striking "for a period not to exceed two years"; and

(2) by adding at the end the following: "The period of a leave of absence granted under this section may not exceed two years, except that the period may exceed two years but may not exceed three years in the case of an eligible member pursuing a program of education in a health care profession.".

**SEC. 555. ELIGIBILITY OF CADETS AND MIDSHIPMEN FOR MEDICAL AND DENTAL CARE AND DISABILITY BENEFITS.**

(a) MEDICAL AND DENTAL CARE.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074a the following new section:

**"§ 1074b. Medical and dental care: Academy cadets and midshipmen; members of, and designated applicants for membership in, Senior ROTC**

"(a) ELIGIBILITY.—Under joint regulations prescribed by the administering Secretaries, the following persons are, except as provided in subsection (c), entitled to the benefits described in subsection (b):

"(1) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, and a midshipman at the United States Naval Academy, who incurs or aggravates an injury, illness, or disease in the line of duty.

"(2) A member of, and a designated applicant for membership in, the Senior Reserve Officers' Training Corps who incurs or aggravates an injury, illness, or disease—

"(A) in the line of duty while performing duties under section 2109 of this title;

"(B) while traveling directly to or from the place at which that member or applicant is to perform or has performed duties pursuant to section 2109 of this title; or

"(C) in the line of duty while remaining overnight immediately before the commencement of duties performed pursuant to section 2109 of this title or, while remaining overnight, between successive periods of performing duties pursuant to section 2109 of this title, at or in the vicinity of the site of the duties performed pursuant to section

2109 of this title, if the site is outside reasonable commuting distance from the residence of the member or designated applicant.

"(b) BENEFITS.—A person eligible for benefits under subsection (a) for an injury, illness, or disease is entitled to—

"(1) the medical and dental care under this chapter that is appropriate for the treatment of the injury, illness, or disease until the injury, illness, disease, or any resulting disability cannot be materially improved by further hospitalization or treatment; and

"(2) meals during hospitalization.

"(c) EXCEPTION FOR GROSS NEGLIGENCE OR MISCONDUCT.—A person is not entitled to benefits under subsection (b) for an injury, illness, or disease, or the aggravation of an injury, illness, or disease that is a result of the gross negligence or the misconduct of that person.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074a the following new item:

"1074b. Medical and dental care: Academy cadets and midshipmen; members of, and designated applicants for membership in, Senior ROTC.".

(b) ELIGIBILITY OF ACADEMY CADETS AND MIDSHIPMEN FOR DISABILITY RETIRED PAY.—(1) Section 1217 of title 10, United States Code, is amended to read as follows:

**"§ 1217. Academy cadets and midshipmen: applicability of chapter**

"(a) This chapter applies to cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy and midshipmen of the United States Naval Academy, but only with respect to physical disabilities incurred after the date of the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

"(b) Monthly cadet pay and monthly midshipman pay under section 203(c) of title 37 shall be considered to be basic pay for purposes of this chapter and the computation of retired pay and severance and separation pay to which entitlement is established under this chapter.".

(2) The item related to section 1217 in the table of sections at the beginning of chapter 61 of such title is amended to read as follows:

"1217. Academy cadets and midshipmen: applicability of chapter.".

**SEC. 556. TRANSFER OF AUTHORITY TO CONFER DEGREES UPON GRADUATES OF THE COMMUNITY COLLEGE OF THE AIR FORCE.**

(a) TRANSFER TO COMMANDER OF AIR UNIVERSITY.—Subsection (a) of section 9317 of title 10, United States Code, is amended—

(1) by striking "may confer—" and inserting "may confer academic degrees as follows:";

(2) by striking "the" in paragraphs (1), (2), and (3) after the paragraph designation and inserting "The";

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

(4) by striking "; and" at the end of paragraph (2) and inserting a period; and

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

"(4) An academic degree at the level of associate upon graduates of the Community College of the Air Force who fulfill the requirements for that degree.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 9315 of such title is amended to read as follows:

"(c) ASSOCIATE DEGREES.—(1) Subject to paragraph (2), an academic degree at the level of associate may be conferred under section 9317 of this title upon any enlisted member who has completed a program prescribed by the Community College of the Air Force.

"(2) No degree may be conferred upon any enlisted member under this section unless the Secretary of Education determines that the standards for the award of academic degrees in agencies of the United States have been met.".

(c) CLERICAL AMENDMENTS.—(1) The heading of section 9317 of such title is amended to read as follows:

**"§ 9317. Air University: conferral of degrees".**

(2) The item relating to such section in the table of sections at the beginning of chapter 901 of such title is amended to read as follows:

"9317. Air University: conferral of degrees.".

**SEC. 557. CHANGE IN TITLES OF LEADERSHIP POSITIONS AT THE NAVAL POSTGRADUATE SCHOOL.**

(a) DESIGNATION OF PRESIDENT.—(1) The position of Superintendent of the Naval Postgraduate School is redesignated as President of the Naval Postgraduate School.

(2) Any reference to the Superintendent of the Naval Postgraduate School in any law, rule, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the President of the Naval Postgraduate School.

(3)(A) Section 7042 of title 10, United States Code, is amended by striking "Superintendent" each place it appears in the text and inserting "President".

(B) The heading of such section is amended to read as follows:

**"§ 7042. President; assistants".**

(4)(A) Section 7044 of such title is amended by striking "Superintendent" and inserting "President of the school".

(B) Sections 7048(a) and 7049(e) of such title are amended by striking "Superintendent" and inserting "President".

(b) DESIGNATION OF PROVOST AND ACADEMIC DEAN.—(1) The position of Academic Dean of the Naval Postgraduate School is redesignated as Provost and Academic Dean of the Naval Postgraduate School.

(2) Any reference to the Academic Dean of the Naval Postgraduate School in any law, rule, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the Provost and Academic Dean of the Naval Postgraduate School.

(3)(A) Subsection (a) of section 7043 of title 10, United States Code, is amended to read as follows:

"(a) There is at the Naval Postgraduate School the civilian position of Provost and Academic Dean. The Provost and Academic Dean shall be appointed, to serve for periods of not more than

five years, by the Secretary of the Navy. Before making an appointment to the position of Provost and Academic Dean, the Secretary shall consult with the Board of Advisors for the Naval Postgraduate School and shall consider any recommendation of the leadership and faculty of the Naval Postgraduate School regarding an appointment to that position.".

(B) The heading of such section is amended to read as follows:

**"§ 7043. Provost and Academic Dean".**

(4) Sections 7043(b) and 7081(a) of title 10, United States Code, are amended by striking "Academic Dean" and inserting "Provost and Academic Dean".

(5)(A) Section 5102(c)(10) of title 5, United States Code, is amended by striking "Academic Dean of the Postgraduate School of the Naval Academy" and inserting "Provost and Academic Dean of the Naval Postgraduate School".

(B) Subsection (b) of such section is amended by striking "Academic Dean" and inserting "Provost and Academic Dean".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 605 of such title 10, United States Code, is amended by striking the items related to sections 7042 and 7043 and inserting the following new items:

"7042. President; assistants.
"7043. Provost and Academic Dean.".

# Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

**SEC. 558. CONTINUATION OF IMPACT AID ASSISTANCE ON BEHALF OF DEPENDENTS OF CERTAIN MEMBERS DESPITE CHANGE IN STATUS OF MEMBER.**

(a) SPECIAL RULE.—For purposes of computing the amount of a payment for an eligible local educational agency under subsection (a) of section 8003 of the Elementary and Secondary Education Act (20 U.S.C. 7703) for school year 2004–2005, the Secretary of Education shall continue to count as a child enrolled in a school of such agency under such subsection any child who—

(1) would be counted under paragraph (1)(B) of such subsection to determine the number of children who were in average daily attendance in the school; but

(2) due to the deployment of both parents or legal guardians of the child, the deployment of a parent or legal guardian having sole custody of the child, or the death of a military parent or legal guardian while on active duty (so long as the child resides on Federal property (as defined in section 8013(5) of such Act (20 U.S.C. 7713(5))), is not eligible to be so counted.

(b) TERMINATION.—The special rule provided under subsection (a) applies only so long as the children covered by such subsection remain in average daily attendance at a school in the same local educational agency they attended before their change in eligibility status.

**SEC. 559. 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 2005.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2005, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2005 of—

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

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "basic support payment" means a payment authorized under section 8003(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

**SEC. 560. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.**

Of the amount authorized to be appropriated pursuant to section 301(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).

## Subtitle H—Medals and Decorations and Special Promotions and Appointments

**SEC. 561. AWARD OF MEDAL OF HONOR TO INDIVIDUAL INTERRED IN THE TOMB OF THE UNKNOWNS AS REPRESENTATIVE OF CASUALTIES OF A WAR.**

(a) AWARD TO INDIVIDUAL AS REPRESENTATIVE.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1134. Medal of honor: award to individual interred in Tomb of the Unknowns as representative of casualties of a war**

"The medal of honor awarded posthumously to a deceased member of the armed forces who, as an unidentified casualty of a particular war or other armed conflict, is interred in the Tomb of the Unknowns at Arlington National Cemetery, Virginia, is

awarded to the member as the representative of the members of the armed forces who died in such war or other armed conflict and whose remains have not been identified, and not to the individual personally.".

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

"1134. Medal of honor: award to individual interred in Tomb of the Unknowns as representative of casualties of a war.".

**SEC. 562. PLAN FOR REVISED CRITERIA AND ELIGIBILITY REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE FOR SERVICE IN KOREA AFTER JULY 28, 1953.**

(a) REQUIREMENT FOR PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for revising the Army's criteria and eligibility requirements for award of the Combat Infantryman Badge and the Combat Medical Badge for service in the Republic of Korea after July 28, 1953, to fulfill the purpose stated in subsection (b).

(b) PURPOSE OF REVISED CRITERIA AND ELIGIBILITY REQUIREMENTS.—The purpose for revising the criteria and eligibility requirements for award of the Combat Infantryman Badge and the Combat Medical Badge for service in the Republic of Korea after July 28, 1953, is to ensure fairness in the standards applied to Army personnel in the awarding of such badges for Army service in the Republic of Korea in comparison to the standards applied to Army personnel in the awarding of such badges for Army service in other areas of operations.

**SEC. 563. AUTHORITY TO APPOINT BRIGADIER GENERAL CHARLES E. YEAGER, UNITED STATES AIR FORCE (RETIRED), TO THE GRADE OF MAJOR GENERAL ON THE RETIRED LIST.**

The President is authorized to appoint, by and with the advice and consent of the Senate, Brigadier General Charles E. Yeager, United States Air Force (retired), to the grade of major general on the retired list of the Air Force. Any such appointment shall not affect the retired pay or other benefits of Charles E. Yeager or any benefits to which any other person is or may become entitled based upon his service.

**SEC. 564. POSTHUMOUS COMMISSION OF WILLIAM MITCHELL IN THE GRADE OF MAJOR GENERAL IN THE ARMY.**

(a) AUTHORITY.—The President, by and with the advice and consent of the Senate, may issue posthumously a commission as major general, United States Army, in the name of the late William Mitchell, formerly a colonel, United States Army, who resigned his commission on February 1, 1926.

(b) DATE OF COMMISSION.—A commission issued under subsection (a) shall issue as of the date of the death of William Mitchell on February 19, 1936.

(c) PROHIBITION OF BENEFITS.—No person is entitled to receive any bonus, gratuity, pay, allowance, or other financial benefit by reason of the enactment of this section.

# Subtitle I—Military Voting

**SEC. 566. FEDERAL WRITE-IN BALLOTS FOR ABSENTEE MILITARY VOTERS LOCATED IN THE UNITED STATES.**

(a) DUTIES OF PRESIDENTIAL DESIGNEE.—Section 101(b)(3) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)(3)) is amended by striking "overseas voters" and inserting "absent uniformed services voters and overseas voters".

(b) STATE RESPONSIBILITIES.—Section 102(a)(3) of such Act (42 U.S.C. 1973ff–1(a)(3)) is amended by striking "overseas voters" and inserting "absent uniformed services voters and overseas voters".

(c) FEDERAL WRITE-IN ABSENTEE BALLOT.—Section 103 of such Act (42 U.S.C. 1973ff–2) is amended—

(1) in subsection (a), by striking "overseas voters" and inserting "absent uniformed services voters and overseas voters";

(2) in subsection (b), by striking the second sentence and inserting the following new sentence: "A Federal write-in absentee ballot of an absent uniformed services voter or overseas voter shall not be counted—

"(1) in the case of a ballot submitted by an overseas voter who is not an absent uniformed services voter, if the ballot is submitted from any location in the United States;

"(2) if the application of the absent uniformed services voter or overseas voter for a State absentee ballot is received by the appropriate State election official after the later of—

"(A) the deadline of the State for receipt of such application; or

"(B) the date that is 30 days before the general election; or

"(3) if a State absentee ballot of the absent uniformed services voter or overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.";

(3) in subsection (c)(1), by striking "overseas voter" and inserting "absent uniformed services voter or overseas voter";

(4) in subsection (d), by striking "overseas voter" both places it appears and inserting "absent uniformed services voter or overseas voter"; and

(5) in subsection (e)(2), by striking "overseas voters" and inserting "absent uniformed services voters and overseas voters".

(d) CONFORMING AMENDMENTS.—(1) The heading of section 103 of such Act is amended to read as follows:

**"SEC. 103. FEDERAL WRITE-IN ABSENTEE BALLOT IN GENERAL ELECTIONS FOR FEDERAL OFFICE FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.".**

(2) The subsection caption for subsection (d) of such section is amended by striking "OVERSEAS VOTER" and inserting "ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER".

**SEC. 567. REPEAL OF REQUIREMENT TO CONDUCT ELECTRONIC VOTING DEMONSTRATION PROJECT FOR THE FEDERAL ELECTION TO BE HELD IN NOVEMBER 2004.**

The first sentence of section 1604(a)(2) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115

Stat. 1277; 42 U.S.C. 1977ff note) is amended by striking "until the regularly scheduled general election for Federal office for November 2004" and inserting the following: "until the first regularly scheduled general election for Federal office which occurs after the Election Assistance Commission notifies the Secretary that the Commission has established electronic absentee voting guidelines and certifies that it will assist the Secretary in carrying out the project".

**SEC. 568. REPORTS ON OPERATION OF FEDERAL VOTING ASSISTANCE PROGRAM AND MILITARY POSTAL SYSTEM.**

(a) REPORTS ON PROGRAM AND SYSTEM.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the actions that the Secretary has taken to ensure that the Federal Voting Assistance Program carried out under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) functions effectively to support absentee voting by members of the Armed Forces deployed outside the United States in support of Operation Iraqi Freedom, Operation Enduring Freedom, and all other contingency operations.

(2) Not later than 60 days after the date of the submission of the report required by paragraph (1), the Secretary of Defense shall submit to Congress a report on the actions that the Secretary has taken to ensure that the military postal system functions effectively to support the morale of members referred to in such paragraph and their ability to vote by absentee ballot.

(b) REPORT ON IMPLEMENTATION OF POSTAL SYSTEM IMPROVEMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report specifying—

(1) the actions taken to implement the recommendations of the Military Postal Service Agency Task Force, dated 28 August 2000; and

(2) in the case of each recommendation not implemented or not fully implemented as of the date of the submission of the report, the reasons for not implementing or not fully implementing the recommendation, as the case may be.

## Subtitle J—Military Justice Matters

**SEC. 571. REVIEW ON HOW SEXUAL OFFENSES ARE COVERED BY UNIFORM CODE OF MILITARY JUSTICE.**

(a) REVIEW REQUIRED.—The Secretary of Defense shall review the Uniform Code of Military Justice and the Manual for Courts-Martial with the objective of determining what changes are required to improve the ability of the military justice system to address issues relating to sexual assault and to conform the Uniform Code of Military Justice and the Manual for Courts-Martial more closely to other Federal laws and regulations that address such issues.

(b) REPORT.—Not later than March 1, 2005, 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 review carried out under subsection (a). The report shall include the recommendations of the Secretary for revisions

to the Uniform Code of Military Justice and, for each such revision, the rationale behind that revision.

**SEC. 572. WAIVER OF RECOUPMENT OF TIME LOST FOR CONFINEMENT IN CONNECTION WITH A TRIAL.**

Section 972 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) WAIVER OF RECOUPMENT OF TIME LOST FOR CONFINEMENT.—The Secretary concerned shall waive liability for a period of confinement in connection with a trial under subsection (a)(3), or exclusion of a period of confinement in connection with a trial under subsection (b)(3), in a case upon the occurrence of any of the following events:

"(1) For each charge—

"(A) the charge is dismissed before or during trial in a final disposition of the charge; or

"(B) the trial results in an acquittal of the charge.

"(2) For each charge resulting in a conviction in such trial—

"(A) the conviction is set aside in a final disposition of such charge, other than in a grant of clemency; or

"(B) a judgment of acquittal or a dismissal is entered upon a reversal of the conviction on appeal.".

**SEC. 573. PROCESSING OF FORENSIC EVIDENCE COLLECTION KITS AND ACQUISITION OF SUFFICIENT STOCKS OF SUCH KITS.**

(a) ELIMINATION OF BACKLOG, ETC.—The Secretary of Defense shall take such steps as may be necessary to ensure that—

(1) the United States Army Criminal Investigation Laboratory has the personnel and resources to effectively process forensic evidence used by the Department of Defense within 60 days of receipt by the laboratory of such evidence;

(2) consistent policies are established among the Armed Forces to reduce the time period between the collection of forensic evidence and the receipt and processing of such evidence by United States Army Criminal Investigation Laboratory; and

(3) there is an adequate supply of forensic evidence collection kits—

(A) for all United States military installations, including the military service academies; and

(B) for units of the Armed Forces deployed in theaters of operation.

(b) TRAINING.—The Secretary shall take such measures as the Secretary considers appropriate to ensure that personnel are appropriately trained—

(1) in the use of forensic evidence collection kits; and

(2) in the prescribed procedures to ensure protection of the chain of custody of such kits once used.

**SEC. 574. AUTHORITIES OF THE JUDGE ADVOCATES GENERAL.**

(a) DEPARTMENT OF THE ARMY.—Section 3037 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting "The term of office of the Judge Advocate General and the Assistant Judge Advocate General is four years."; and

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

"(e) No officer or employee of the Department of Defense may interfere with—

"(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Army or the Chief of Staff of the Army; or

"(2) the ability of judge advocates of the Army assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.".

(b) DEPARTMENT OF THE NAVY.—(1) Section 5148 of such title is amended by adding at the end the following new subsection:

"(e) No officer or employee of the Department of Defense may interfere with—

"(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Navy or the Chief of Naval Operations; or

"(2) the ability of judge advocates of the Navy assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.".

(2) Section 5046 of such title is amended by adding at the end the following new subsection:

"(c) No officer or employee of the Department of Defense may interfere with—

"(1) the ability of the Staff Judge Advocate to the Commandant of the Marine Corps to give independent legal advice to the Commandant of the Marine Corps; or

"(2) the ability of judge advocates of the Marine Corps assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.".

(c) DEPARTMENT OF THE AIR FORCE.—Section 8037 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ", but may be" in the second sentence and all that follows in that sentence through "President";

(2) in subsection (c)—

(A) by striking "shall" in the matter preceding paragraph (1);

(B) by striking paragraph (2);

(C) by redesignating paragraph (1) as paragraph (3) and in that paragraph—

(i) inserting "shall" before "receive,"; and

(ii) by striking "; and" at the end and inserting a period; and

(D) by inserting before paragraph (3), as so redesignated, the following new paragraphs:

"(1) is the legal adviser of the Secretary of the Air Force and of all officers and agencies of the Department of the Air Force;

"(2) shall direct the officers of the Air Force designated as judge advocates in the performance of their duties; and";

(3) in subsection (d)(1), by striking ", but may be" in the second sentence and all that follows in that sentence through "President"; and

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

"(f) No officer or employee of the Department of Defense may interfere with—

"(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Air Force or the Chief of Staff of the Air Force; or

"(2) the ability of officers of the Air Force who are designated as judge advocates who are assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.".

(d) INDEPENDENT REVIEW.—(1) The Secretary of Defense shall establish an independent panel of outside experts to conduct a study and review of the relationships between the legal elements of each of the military departments and to prepare a report setting forth the panel's recommendations as to statutory, regulatory, and policy changes that the panel considers to be desirable to improve the effectiveness of those relationships and to enhance the legal support provided to the leadership of each military department and each of the Armed Forces.

(2) The panel shall be composed of seven members, appointed by the Secretary of Defense from among private United States citizens who have substantial expertise in military law and the organization and functioning of the military departments. No more than one member of the panel may have served as the Judge Advocate General of an Armed Force, and no more than one member of the panel may have served as the General Counsel of a military department.

(3) The Secretary of Defense shall designate the chairman of the panel from among the members of the panel other than a member who has served as a Judge Advocate General or as a military department General Counsel.

(4) Members shall be appointed for the life of the panel. Any vacancy in the panel shall be filled in the same manner as the original appointment.

(5) The panel shall meet at the call of the chairman.

(6) All original appointments to the panel shall be made by January 15, 2005. The chairman shall convene the first meeting of the panel not later than February 1, 2005.

(7) In carrying out the study and review required by paragraph (1), the panel shall—

(A) review the history of relationships between the uniformed and civilian legal elements of each of the Armed Forces;

(B) analyze the division of duties and responsibilities between those elements in each of the Armed Forces;

(C) review the situation with respect to civilian attorneys outside the offices of the service general counsels and their relationships to the Judge Advocates General and the General Counsels;

(D) consider whether the ability of judge advocates to give independent, professional legal advice to their service staffs and to commanders at all levels in the field is adequately provided for by policy and law; and

(E) consider whether the Judge Advocates General and General Counsels possess the necessary authority to exercise professional supervision over judge advocates, civilian attorneys, and other legal personnel practicing under their cognizance in the performance of their duties.

(8) Not later than April 15, 2005, the panel shall submit a report on the study and review required by paragraph (1) to the Secretary of Defense. The report shall include the findings and

conclusions of the panel as a result of the study and review, together with any recommendations for legislative or administrative action that the panel considers appropriate. The Secretary of Defense shall transmit the report, together with any comments the Secretary wishes to provide, to the Committees on Armed Services of the Senate and House of Representatives not later than May 1, 2005.

(9) In this section, the term "Armed Forces" does not include the Coast Guard.

# Subtitle K—Sexual Assault in the Armed Forces

**SEC. 576. EXAMINATION OF SEXUAL ASSAULT IN THE ARMED FORCES BY THE DEFENSE TASK FORCE ESTABLISHED TO EXAMINE SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES.**

(a) EXTENSION OF TASK FORCE.—(1) The task force in the Department of Defense established by the Secretary of Defense pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1466) to examine matters relating to sexual harassment and violence at the United States Military Academy and United States Naval Academy shall continue in existence for a period of at least 18 months after the date as of which the task force would otherwise be terminated pursuant to subsection (i) of that section.

(2) Upon the completion of the functions of the task force referred to in paragraph (1) pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004, the name of the task force shall be changed to the Defense Task Force on Sexual Assault in the Military Services, and the task force shall then carry out the functions specified in this section. The task force shall not begin to carry out the functions specified in this section until it has completed its functions under such section 526.

(3) Before the task force extended under this subsection begins to carry out the functions specified in this section, the Secretary of Defense may, consistent with the qualifications required by section 526(f) of Public Law 108–136, change the composition of the task force as the Secretary considers appropriate for the effective performance of such functions, except that—

(A) any change initiated by the Secretary in the membership of the task force under this paragraph may not take effect before the task force has completed its functions under section 526 of Public Law 108–136; and

(B) the total number of members of the task force may not exceed 14.

(b) EXAMINATION OF MATTERS RELATING TO SEXUAL ASSAULT IN THE ARMED FORCES.—The task force shall conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or commit acts of sexual assault.

(c) RECOMMENDATIONS.—The Task Force shall include in its report under subsection (e) recommendations of ways by which civilian officials within the Department of Defense and leadership within the Armed Forces may more effectively address matters relating to sexual assault. That report shall include an assessment of, and recommendations (including any recommendations for

changes in law) for measures to improve, with respect to sexual assault, the following:

(1) Victim care and advocacy programs.

(2) Effective prevention.

(3) Collaboration among military investigative organizations with responsibility or jurisdiction.

(4) Coordination and resource sharing between military and civilian communities, including local support organizations.

(5) Reporting procedures, data collection, tracking of cases, and use of data on sexual assault by senior military and civilian leaders.

(6) Oversight of sexual assault programs, including development of measures of the effectiveness of those programs in responding to victim needs.

(7) Military justice issues.

(8) Progress in developing means to investigate and prosecute assailants who are foreign nationals.

(9) Adequacy of resources supporting sexual assault prevention and victim advocacy programs, particularly for deployed units and personnel.

(10) Training of military and civilian personnel responsible for implementation of sexual assault policies.

(11) Programs and policies, including those related to confidentiality, designed to encourage victims to seek services and report offenses.

(12) Other issues identified by the task force relating to sexual assault.

(d) METHODOLOGY.—In carrying out its examination under subsection (b) and in formulating its recommendations under subsection (c), the task force shall consider the findings and recommendations of previous reviews and investigations of sexual assault conducted by the Department of Defense and the Armed Forces.

(e) REPORT.—(1) Not later than one year after the initiation of its examination under subsection (b), the task force shall submit to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force a report on the activities of the task force and on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

(2) The report shall include the following:

(A) A description of any barrier to implementation of improvements as a result of previous efforts to address sexual assault.

(B) Other areas of concern not previously addressed in prior reports.

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law that the task force considers appropriate.

(3) Within 90 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (e)(3).

**SEC. 577. DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.**

(a) COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

(3) Before developing the comprehensive policy required by paragraph (1), the Secretary of Defense shall develop a definition of sexual assault. The definition so developed shall be used in the comprehensive policy under paragraph (1) and otherwise within the Department of Defense and Coast Guard in matters involving members of the Armed Forces. The definition shall be uniform for all the Armed Forces and shall be developed in consultation with the Secretaries of the military departments and the Secretary of Homeland Security with respect to the Coast Guard.

(b) ELEMENTS OF COMPREHENSIVE POLICY.—The comprehensive policy developed under subsection (a) shall, at a minimum, address the following matters:

(1) Prevention measures.

(2) Education and training on prevention and response.

(3) Investigation of complaints by command and law enforcement personnel.

(4) Medical treatment of victims.

(5) Confidential reporting of incidents.

(6) Victim advocacy and intervention.

(7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

(8) Disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault.

(9) Disposition of members of the Armed Forces accused of sexual assault.

(10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.

(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military

departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

(A) to conform such policies and procedures to the policy developed under subsection (a); and

(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

(2) The elements specified in this paragraph are as follows:

(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

(i) specification of the person or persons to whom the alleged offense should be reported;

(ii) specification of any other person whom the victim should contact;

(iii) procedures for the preservation of evidence; and

(iv) procedures for confidential reporting and for contacting victim advocates.

(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

(G) Any other matters that the Secretary of Defense considers appropriate.

(f) ANNUAL REPORT ON SEXUAL ASSAULTS.—(1) Not later than January 15 of each year, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. In the case of the Secretary of the Navy, separate reports shall be prepared for the Navy and for the Marine Corps.

(2) Each report on an Armed Force under paragraph (1) shall contain the following:

(A) The number of sexual assaults against members of the Armed Force, and the number of sexual assaults by members of the Armed Force, that were reported to military officials during the year covered by such report, and the number of the cases so reported that were substantiated.

(B) A synopsis of, and the disciplinary action taken in, each substantiated case.

(C) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by such report in response to incidents of sexual assault involving members of the Armed Force concerned.

(D) A plan for the actions that are to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Armed Forces concerned.

(3) Each report under paragraph (1) for any year after 2005 shall include an assessment by the Secretary of the military department submitting the report of the implementation during the preceding fiscal year of the policies and procedures of such department on the prevention of and response to sexual assaults involving members of the Armed Forces in order to determine the effectiveness of such policies and procedures during such fiscal year in providing an appropriate response to such sexual assaults.

(4) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives each report submitted to the Secretary under this subsection, together with the comments of the Secretary on the report. The Secretary shall submit each such report not later than March 15 of the year following the year covered by the report.

(5) For the report under this subsection covering 2004, the applicable date under paragraph (1) is April 1, 2005, and the applicable date under paragraph (4) is May 1, 2005.

# Subtitle L—Management and Administrative Matters

### SEC. 581. THREE-YEAR EXTENSION OF LIMITATION ON REDUCTIONS OF PERSONNEL OF AGENCIES RESPONSIBLE FOR REVIEW AND CORRECTION OF MILITARY RECORDS.

Section 1559(a) of title 10, United States Code, is amended by striking "During fiscal years 2003, 2004, and 2005," and inserting "Before October 1, 2008,".

### SEC. 582. STAFFING FOR DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE (DPMO).

(a) REPORT WHEN STAFFING IS BELOW PRESCRIBED LEVEL.—Subparagraph (B) of section 1501(a)(5) of title 10, United States Code, is amended—

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

(2) by inserting ", whether temporary or permanent," after "civilian personnel"; and

(3) by adding at the end the following:

"(ii) If for any reason the number of military and civilian personnel assigned or detailed to the office should fall below the required level under clause (i), the Secretary of Defense shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of the number of personnel so assigned or detailed and of the Secretary's plan to restore the staffing level of the office to at least the required minimum number under clause (i). The Secretary shall publish such notice and plan in the Federal Register.".

(b) GAO STUDY.—Not later than 180 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 providing an assessment of staffing and funding levels for the

Defense Prisoner of War/Missing Personnel Office. The report shall include—

(1) a description of changes, over the period from the inception of the office to the time of the submission of the report, in the missions and mission requirements of the office, together with a comparison of personnel and funding requirements of the office over that period with actual manning and funding levels over that period; and

(2) the Comptroller General's assessment of the adequacy of current manning and funding levels for that office in light of current mission requirements.

**SEC. 583. PERMANENT ID CARDS FOR RETIREE DEPENDENTS AGE 75 AND OLDER.**

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1060b. Military ID cards: dependents and survivors of retirees; issuance of permanent ID card after attaining 75 years of age**

"(a) PERMANENT ID CARD AFTER AGE 75.—In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent who has attained 75 years of age. Such a permanent ID card shall be issued upon the expiration, after the retiree dependent attains 75 years of age, of any earlier, renewable military ID card or, if earlier, upon the request of such a retiree dependent after attaining age 75.

"(b) DEFINITIONS.—In this section:

"(1) The term 'military ID card' means a card or other form of identification used for purposes of demonstrating eligibility for any benefit from the Department of Defense.

"(2) The term 'retiree dependent' means a person who is a dependent of a retired member of the uniformed services, or a survivor of a deceased retired member of the uniformed services, who is eligible for any benefit from the Department of Defense.".

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

"1060b. Military ID cards: dependents and survivors of retirees; issuance of permanent ID card after attaining 75 years of age.".

(b) EFFECTIVE DATE.—Section 1060b of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2004.

**SEC. 584. AUTHORITY TO FURNISH CIVILIAN CLOTHING TO MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.**

(a) AUTHORITY.—Section 1047 of title 10, United States Code, is amended—

(1) by inserting "(b) CERTAIN ENLISTED MEMBERS.—" before "The Secretary"; and

(2) by inserting after the section heading the following:

"(a) MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.—The Secretary of the military department concerned may furnish civilian clothing to a member at a cost not to exceed

$250, or reimburse a member for the purchase of civilian clothing in an amount not to exceed $250, in the case of a member who—

"(1) is medically evacuated for treatment in a medical facility by reason of an illness or injury incurred or aggravated while on active duty; or

"(2) after being medically evacuated as described in paragraph (1), is in an authorized travel status from a medical facility to another location approved by the Secretary.".

(b) EFFECTIVE DATE.—Subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a), shall take effect as of October 1, 2004, and (subject to subsection (c)) shall apply with respect to clothing furnished, and reimbursement for clothing purchased, on or after that date.

(c) RETROACTIVE APPLICATION.—With respect to the period beginning on October 1, 2004, and ending on the date of the enactment of this Act, the Secretary of Defense shall provide for subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a), to be applied as a continuation of the authority provided in section 1319 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 571), as continued in effect during fiscal year 2004 by section 1103 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1214).

**SEC. 585. AUTHORITY TO ACCEPT DONATION OF FREQUENT TRAVELER MILES, CREDITS, AND TICKETS TO FACILITATE REST AND RECUPERATION TRAVEL OF DEPLOYED MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.**

(a) OPERATION HERO MILES.—(1) Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2613. Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families**

"(a) AUTHORITY TO ACCEPT DONATION OF TRAVEL BENEFITS.—Subject to subsection (c), the Secretary of Defense may accept from any person or government agency the donation of travel benefits for the purposes of use under subsection (d).

"(b) TRAVEL BENEFIT DEFINED.—In the section, the term 'travel benefit' means frequent traveler miles, credits for tickets, or tickets for air or surface transportation issued by an air carrier or a surface carrier, respectively, that serves the public.

"(c) CONDITION ON AUTHORITY TO ACCEPT DONATION.—The Secretary may accept a donation of a travel benefit under this section only if the air or surface carrier that is the source of the benefit consents to such donation. Any such donation shall be under such terms and conditions as the surface carrier may specify, and the travel benefit so donated may be used only in accordance with the rules established by the carrier.

"(d) USE OF DONATED TRAVEL BENEFITS.—A travel benefit accepted under this section may be used only for the purpose of—

"(1) facilitating the travel of a member of the armed forces who—

"(A) is deployed on active duty outside the United States away from the permanent duty station of the member in support of a contingency operation; and

"(B) is granted, during such deployment, rest and recuperative leave, emergency leave, convalescent leave, or another form of leave authorized for the member; or

"(2) in the case of a member of the armed forces recuperating from an injury or illness incurred or aggravated in the line of duty during such a deployment, facilitating the travel of family members of the member in order to be reunited with the member.

"(e) ADMINISTRATION.—(1) The Secretary shall designate a single office in the Department of Defense to carry out this section. That office shall develop rules and procedures to facilitate the acceptance and distribution of travel benefits under this section.

"(2) For the use of travel benefits under subsection (d)(2) by family members of a member of the armed forces, the Secretary may, as the Secretary determines appropriate, limit—

"(A) eligibility to family members who, by reason of affinity, degree of consanguinity, or otherwise, are sufficiently close in relationship to the member of the armed forces to justify the travel assistance;

"(B) the number of family members who may travel; and

"(C) the number of trips that family members may take.

"(3) The Secretary of Defense may, in an exceptional case, authorize a person not described in subsection (d)(2) to use a travel benefit accepted under this subsection to visit a member of the armed forces described in subsection (d)(1) if that person has a notably close relationship with the member. The travel benefit may be used by such person only in accordance with such conditions and restrictions as the Secretary determines appropriate and the rules established by the air carrier or surface carrier that is the source of the travel benefit.

"(f) SERVICES OF NONPROFIT ORGANIZATION.—The Secretary of Defense may enter into an agreement with a nonprofit organization to use the services of the organization—

"(1) to promote the donation of travel benefits under this section, except that amounts appropriated to the Department of Defense may not be expended for this purpose; and

"(2) to assist in administering the collection, distribution, and use of travel benefits under this section.

"(g) FAMILY MEMBER DEFINED.—In this section, the term 'family member' has the meaning given that term in section 411h(b)(1) of title 37.".

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

"2613. Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families.".

(b) TAX TREATMENT OF TRAVEL BENEFITS DONATED FOR OPERATION HERO MILES.—

(1) EXCLUSION FROM GROSS INCOME.—Subsection (b) of section 134 of the Internal Revenue Code of 1986 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

"(5) TRAVEL BENEFITS UNDER OPERATION HERO MILES.—The term 'qualified military benefit' includes a travel benefit

provided under section 2613 of title 10, United States Code (as in effect on the date of the enactment of this paragraph).".

(2) CONFORMING AMENDMENTS.—

(A) Section 134(b)(3)(A) of such Code is amended by striking "paragraph (4)" and inserting "paragraphs (4) and (5)".

(B) Section 3121(a)(18) of such Code is amended by striking "or 134(b)(4)" and inserting "134(b)(4), or 134(b)(5)".

(C) Section 3306(b)(13) of such Code is amended by striking "or 134(b)(4)" and inserting "134(b)(4), or 134(b)(5)".

(D) Section 3401(a)(18) of such Code is amended by striking "or 134(b)(4)" and inserting "134(b)(4), or 134(b)(5)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to travel benefits provided after the date of the enactment of this Act.

**SEC. 586. ANNUAL REPORT IDENTIFYING REASONS FOR DISCHARGES FROM THE ARMED FORCES DURING PRECEDING FISCAL YEAR.**

(a) REPORT REQUIRED.—Not later than March 1 each year through 2011, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on discharges from the Army, Navy, Air Force, and Marine Corps during the preceding fiscal year.

(b) MATTERS TO BE INCLUDED.—Each such report shall show, in the aggregate and for each of those Armed Forces, the following:

(1) The total number of persons discharged during the preceding fiscal year.

(2) For each separation code, and for each reenlistment eligibility code, used by the Armed Forces, the number of those discharged persons assigned that code.

(3) For the persons assigned each such separation code, classification of discharges by age, by sex, by race, by military rank or grade, by time in service, by unit (shown at the small unit level), by military occupational specialty (or the equivalent), and by reenlistment eligibility code.

(c) USE OF GENERIC SEPARATION CODES.—In preparing the reports under this section, the Secretary shall use a generic interservice separation code that provides similar, and consistent, data across the services.

**SEC. 587. STUDY OF BLENDED WING CONCEPT FOR THE AIR FORCE.**

(a) STUDY REQUIRED.—Not later than March 1, 2005, the Secretary of the Air Force shall submit to Congress a report on the blended wing concept for the Air Force. The report shall include the Secretary's findings as to the characteristics and locations that are considered favorable for a blended wing, a description of the manner in which current blended wings are functioning, and a statement of the current and future plans of the Air Force to implement the blended wing concept.

(b) SELECTION CRITERIA.—The report shall include a description of the criteria and attributes that the Secretary requires when choosing units to become blended wings.

**SEC. 588. SENSE OF CONGRESS REGARDING RETURN OF MEMBERS TO ACTIVE DUTY SERVICE UPON REHABILITATION FROM SERVICE-RELATED INJURIES.**

(a) FINDINGS.—Congress makes the following findings:

(1) The generation of young people currently serving on active duty in the Armed Forces, which history will record as being among the greatest, has shown in remarkable numbers an individual resolve to recover from injuries incurred in such service and to return to active service in the Armed Forces.

(2) Since September 11, 2001, numerous brave soldiers, sailors, airmen, and Marines have incurred serious combat injuries, including (as of June 2004) approximately 100 members of the Armed Forces who have been fitted with artificial limbs as a result of devastating injuries sustained in combat overseas.

(3) In cases involving combat-related injuries and other service-related injuries, it is possible, as a result of advances in technology and extensive rehabilitative services, to restore to members of the Armed Forces sustaining such injuries the capability to resume the performance of active military service, including, in a few cases, the capability to participate directly in the performance of combat missions.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a member of the Armed Forces who on the member's own initiative is highly motivated to return to active duty service following rehabilitation from injuries incurred in service in the Armed Forces should, after appropriate medical review and physical disability evaluation, be given the opportunity to present the member's case for continuing to serve on active duty in varied military capacities;

(2) other than appropriate medical review and physical disability evaluation, there should be no barrier in policy or law to such a member having the option to return to military service on active duty; and

(3) the Secretary of Defense should develop specific protocols that include options for such members to return to active duty service and to be retrained to perform military missions for which they are fully capable.

## Subtitle M—Other Matters

**SEC. 591. PROTECTION OF ARMED FORCES PERSONNEL FROM RETALIATORY ACTIONS FOR COMMUNICATIONS MADE THROUGH THE CHAIN OF COMMAND.**

(a) PROTECTED COMMUNICATIONS.—Section 1034(b)(1)(B) of title 10, United States Code, is amended—

(1) by striking "or" at the end of clause (iii)"; and

(2) by striking clause (iv) and inserting the following:

"(iv) any person or organization in the chain of command; or

"(v) any other person or organization designated pursuant to regulations or other established administrative procedures for such communications.".

(b) EFFECTIVE DATE.—The amendments made by this section apply with respect to any unfavorable personnel action taken or threatened, and any withholding of or threat to withhold a favorable

personnel action, on or after the date of the enactment of this Act.

**SEC. 592. IMPLEMENTATION PLAN FOR ACCESSION OF PERSONS WITH SPECIALIZED SKILLS.**

(a) PLAN FOR ACCESSION OF PERSONS WITH SPECIALIZED SKILLS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a plan for implementation of authority, if subsequently provided by law, to allow for accession into the Armed Forces, on a special or lateral-entry basis, of persons with specialized skills, for duty involving the use of such skills.

(2) The plan under paragraph (1) shall address matters such as projected numbers of enlistments and appointments, initial rank or grade, projected enlistment and re-enlistment bonuses and pays, projected length of service obligation (if any), minimum time of active duty requirements, the potential effect the use of such authority would have on other special or lateral-entry programs (such as those applicable to physicians), and such other matters as the Secretary considers appropriate.

(3) The Secretary shall include with the plan submitted under paragraph (1) a comparison of that plan with an alternative for meeting the specialized skills required by the Armed Forces through the use of civilain contractor personnel.

(b) CIVILIAN SKILLS CORPS FEASIBILITY STUDY.—(1) The Secretary of Defense shall conduct a feasibility study of how to implement a system that would make civilian volunteers, with skills determined by the Secretary to be critical, rapidly available for use in, or in support of, units of the Armed Force on a temporary basis to meet no-notice, or short-notice, operational requirements. In conducting the study, the Secretary shall examine a range of options, including—

(A) a system that would embed on short notice in military units civilian volunteers who were not part of the military, but who possessed highly required skills that were in short supply in the Armed Forces; and

(B) a system to provide for the accession into the active or reserve components of persons with critical skills required by the Armed Forces for whom the Secretary could prescribe varying lengths of service and training requirements.

(2) 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 results of the study under paragraph (1) not later than March 31, 2005.

**SEC. 593. ENHANCED SCREENING METHODS AND PROCESS IMPROVEMENTS FOR RECRUITMENT OF HOME SCHOOLED AND NATIONAL GUARD CHALLENGE PROGRAM GED RECIPIENTS.**

(a) ENHANCED SCREEING METHODS AND PROCESS IMPROVEMENTS.—(1) The Secretary of the Army shall carry out an initiative—

(A) to develop screening methods and process improvements for recruiting specified GED recipients so as to achieve attrition patterns, among the GED recipients so recruited, that match attrition patterns for Army recruits who are high school diploma graduates; and

(B) subject to subsection (b), to implement such screening methods and process improvements on a test basis.

(2) For purposes of this section, the term "specified GED recipients" means persons who receive a General Educational Development (GED) certificate as a result of home schooling or the completion of a program under the National Guard Challenge program.

(b) SECRETARY OF DEFENSE REVIEW.—Before the screening methods and process improvements developed under subsection (a)(1) are put into effect under subsection (a)(2), the Secretary of Defense shall review the proposed screening methods and process improvements. Based on such review, the Secretary of Defense either shall approve the use of such screening methods and process improvements for testing (with such modifications as the Secretary may direct) or shall disapprove the use of such methods and process improvements on a test basis.

(c) SECRETARY OF DEFENSE DECISION.—If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, then upon completion of the test period, the Secretary of Defense shall, after reviewing the results of the test program, determine whether the new screening methods and process improvements developed by the Army should be extended throughout the Department for recruit candidates identified by the new procedures to be considered tier 1 recruits.

(d) REPORTS.—(1) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should not be implemented on a test basis, the Secretary of Defense shall, not later than 90 days thereafter, notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of such determination, together with the reasons of the Secretary for such determination.

(2) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, the Secretary of the Army shall submit to the committees specified in paragraph (1) a report on the results of the testing. The report shall be submitted not later than March 31, 2009, except that if the Secretary of Defense directs an earlier termination of the testing initiative, the Secretary of the Army shall submit the report under this paragraph not later than 180 days after such termination. Such report shall include the determination of the Secretary of Defense under subsection (c). If that determination is that the methods and processes tested should not be extended to the other services, the report shall include the Secretary's rationale for not recommending such extension.

**SEC. 594. REDESIGNATION OF NATIONAL GUARD CHALLENGE PROGRAM AS NATIONAL GUARD YOUTH CHALLENGE PROGRAM.**

(a) REDESIGNATION.—Section 509 of title 32, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "National Guard Challenge Program" the first place it appears and inserting "National Guard Youth Challenge Program"; and

(B) by striking "National Guard Challenge Program" the second place it appears and inserting "Program";

(2) by striking "National Guard Challenge Program" each place it appears in subsections (b) through (k) and subsection (m) and inserting "Program";

(3) by striking "program" each place it appears in subsections (b), (g), (i)(2)(A), (j), (k), and (m) and inserting "Program"; and

(4) in subsection (l), by adding at the end the following new paragraph:

"(3) The term 'Program' means the National Guard Youth Challenge Program carried out pursuant to this section.".

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

**"§ 509. National Guard Youth Challenge Program of opportunities for civilian youth".**

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 509 and inserting the following new item:

"509. National Guard Youth Challenge Program of opportunities for civilian youth.".

**SEC. 595. REPORTS ON CERTAIN MILESTONES RELATING TO DEPARTMENT OF DEFENSE TRANSFORMATION.**

(a) MILITARY-TO-CIVILIAN CONVERSIONS.—Not later than January 31, 2005, 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 providing information as to the number of positions in the Department of Defense that were converted during fiscal year 2004 from performance by military personnel to performance by civilian personnel of the Department of Defense or contractor personnel. The report shall include the following:

(1) A description of the skill sets of the military positions converted.

(2) Specification of the total cost of the conversions and how that cost is being met.

(3) The number of positions in the Department of Defense projected for such conversion during the period from March 1, 2005, through January 31, 2006.

(b) MILITARY-TO-MILITARY CONVERSIONS.—Not later than March 31 of each of 2005, 2006, and 2007, 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—

(1) the number of units, by type, converted from one primary military capability to another during the previous fiscal year and, for each such unit, what the new unit designation and new military capabilities are;

(2) the number of military personnel, by military skill, who have converted during the previous fiscal year from one primary military skill to another, with a listing of the military skills to which the individuals converted;

(3) a description of the military unit and military personnel conversions planned for the upcoming fiscal year; and

(4) a statement of whether the overall unit and military personnel conversions planned for the previous fiscal year were

met, and for each such planned conversion, the reasons why the planned conversion was or was not met.

(c) ARMY TRANSFORMATION TO BRIGADE STRUCTURE.—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 an annual report on the status of the internal transformation of the Army from a division-orientated force to a brigade-orientated force. Such report shall be submitted not later than March 31 of each year, except that the requirement to submit such annual report shall terminate when the Secretary of the Army submits to those committees the Secretary's certification that the transformation of the Army to a brigade-orientated force has been completed. Upon the submission of such certification, the Secretary shall publish in the Federal Register notice of that certification and that the statutory requirement to submit an annual report under this subsection has terminated.

**SEC. 596. REPORT ON ISSUES RELATING TO REMOVAL OF REMAINS OF PERSONS INTERRED IN UNITED STATES MILITARY CEMETERIES OVERSEAS.**

(a) STUDY.—The Secretary of the Army shall examine the issues relating to requests for disinterment of remains of persons buried in United States overseas military cemeteries. The examination shall include the following:

(1) A review of the historical facts involved in establishing the United States overseas military cemeteries and in determining the criteria for interment in those cemeteries.

(2) An examination of the processes for ensuring that the initial disposition decision with respect to the remains of any decedent was carried out, together with a review and explanation of the existing policy and procedures regarding request for disinterment and any exceptions that have been made.

(3) An analysis of the potential reasons for justifying disinterment of remains from those cemeteries, including error, misunderstanding, and change of decision by the original responsible next of kin or other family member or group of family members.

(4) An analysis of the potential impact on the operation of United States overseas military cemeteries of permitting disinterment of remains from those cemeteries.

(b) REPORT.—Not later than September 30, 2005, 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 results of the examination under subsection (a). The report shall include the following:

(1) The matters specified in paragraphs (1), (2), (3), and (4) of subsection (a).

(2) A description of the changes to policy criteria and procedures that would be necessary to support a system for requesting and authorizing disinterment of such remains.

(3) The recommendations of the Secretary of the Army and the American Battle Monuments Commission for changing current policy and procedures with respect to such disinterments.

(c) CONSULTATION WITH ABMC.—The Secretary shall carry out the examination under subsection (a) and prepare the report

under subsection (b) in consultation with the American Battle Monuments Commission.

(d) ABMC ASSISTANCE.—The American Battle Monuments Commission shall provide the Secretary of the Army such assistance as the Secretary may require in carrying out this section.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "United States overseas military cemetery" means a cemetery located in a foreign country that is administered by the Secretary of a military department or the American Battle Monuments Commission.

(2) The term "initial disposition decision", with respect to the remains of a person who died outside the United States and was interred in a United States overseas military cemetery, means a decision by a family member (or other designated person) as to the disposition (in accordance with laws and regulations in effect at the time) of the remains of the deceased person, such decision being to have the remains interred in a United States overseas military cemetery (rather than to have those remains transported to the United States for interment or other disposition in the United States).

**SEC. 597. COMPTROLLER GENERAL REPORTS ON CLOSURE OF DEPARTMENT OF DEFENSE DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS AND COMMISSARY STORES.**

(a) REPORT ON DEFENSE DEPENDENT SCHOOLS.—The Comptroller General shall prepare a report containing—

(1) an assessment by the Comptroller General of the policy of the Department of Defense, and the criteria utilized by the Department, regarding the closure of Department of Defense dependent elementary and secondary schools, including whether or not such policy and criteria are consistent with Department policies and procedures on the preservation of the quality of life of members of the Armed Forces and their dependents; and

(2) an assessment by the Comptroller General of any current or on-going studies or assessments of the Department with respect to any of the schools.

(b) REPORT ON COMMISSARY STORES.—The Comptroller General shall prepare a report containing—

(1) an assessment by the Comptroller General of the policy of the Department of Defense, and the criteria utilized by the Department, regarding the closure of commissary stores, including whether or not such policy and criteria are consistent with Department policies and procedures on the preservation of the quality of life of members of the Armed Forces and their dependents; and

(2) an assessment by the Comptroller General of any current or on-going studies or assessments of the Department with respect to any of the commissary stores.

(c) SUBMISSION OF REPORTS.—The Comptroller General shall submit the reports required by this section to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act.

**SEC. 598. COMPTROLLER GENERAL REPORT ON TRANSITION ASSISTANCE PROGRAMS FOR MEMBERS SEPARATING FROM THE ARMED FORCES.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the programs of the Department of Defense and other Federal agencies under which transition assistance is provided to members of the Armed Forces who are separating from active duty service.

(b) ELEMENTS OF REPORT.—(1) With regard to the transition assistance programs under section 1142 and 1144 of title 10, United States Code, the report required by subsection (a) shall include—

(A) an analysis of the extent to which such programs are meeting the current needs of members of the Armed Forces as they are discharged or released from active duty;

(B) a discussion of the original purposes of the programs;

(C) a discussion of how the programs are currently being administered in relationship to those purposes;

(D) an assessment of whether the programs are adequate to meet the current needs of members of the reserve components; and

(E) such recommendations as the Comptroller General considers appropriate for improving such programs, including any recommendation regarding whether participation by members of the Armed Forces in such programs should be required.

(2) The report shall include an analysis of any differences among the Armed Forces and among the commands of military installations of the Armed Forces regarding how transition assistance is being provided under the transition assistance programs and such recommendations as the Comptroller General considers appropriate—

(A) to achieve uniformity in the provision of assistance under such programs; and

(B) to ensure that the transition assistance is provided under such programs to members of the Armed Forces who are being separated at medical facilities of the uniformed services or Department of Veterans Affairs medical centers and to Armed Forces personnel on a temporary disability retired list under section 1202 or 1205 of title 10, United States Code.

(3) The report shall include—

(A) an analysis of the relationship between the Department of Defense transition assistance programs and the transition assistance programs of the Department of Veterans Affairs and the Department of Labor, including the relationship between the benefits delivery at discharge program carried out jointly by the Department of Defense and the Department of Veterans Affairs and the other transition assistance programs; and

(B) an assessment of the quality and thoroughness of information being provided during preseparation briefings under such transition assistance programs regarding the full range of benefits available to qualified members of the Armed Forces under programs operated by the Department of Veterans Affairs and the requirements for qualifying for those benefits.

(4) The report shall specify the rates of participation of members of the Armed Forces in the transition assistance programs and include such recommendations as the Comptroller General considers

appropriate to increase such participation rates, including any recommendations regarding revisions of such programs that could result in increased participation by members.

(5) The report shall include—

(A) an assessment of whether the transition assistance information provided to members of the Armed Forces omits any transition information that would be beneficial to members;

(B) an assessment of the extent to which information is provided under the transition assistance programs regarding participation in Federal procurement opportunities available at prime contract and subcontract levels to veterans with service-connected disabilities and other veterans; and

(C) such recommendations as the Comptroller General considers appropriate regarding additional information that should be provided and any other recommendations that the Comptroller General considers appropriate for enhancing the provision of counseling on such procurement opportunities.

(6) The report shall include—

(A) an assessment of the extent to which representatives of military service organizations and veterans' service organizations are afforded opportunities to participate, and do participate, in preseparation briefings under transition assistance programs;

(B) an assessment of the effectiveness and usefulness of the role that military service organizations and veterans' service organizations are playing in the preseparation briefing process; and

(C) such recommendations as the Comptroller General considers appropriate regarding whether such organizations should be given a more formal role in the preseparation briefing process and how representatives of such organizations could better be used to disseminate transition assistance information and provide preseparation counseling to members of the Armed Forces, including members who are being released from active duty for continuation of service in a reserve component.

(7) The report shall include an analysis of the use of post-deployment and predischarge health screenings and such recommendations as the Comptroller General considers appropriate regarding whether and how to integrate the health screening process and the transition assistance programs into a single, coordinated preseparation program for members of the Armed Forces being discharged or released from active duty.

(8) The report shall include an analysis of the processes of the Armed Forces for conducting physical examinations of members of the Armed Forces in connection with discharge and release from active duty, including—

(A) how post-deployment questionnaires are used;

(B) the extent to which members of the Armed Forces waive the physical examinations; and

(C) how, and the extent to which, members of the Armed Forces are referred for follow-up health care.

(9) The report shall include a discussion of the current process by which mental health screenings are conducted, follow-up mental health care is provided for, and services are provided in cases of post-traumatic stress disorder and related conditions for members of the Armed Forces in connection with discharge and release from active duty, together with—

(A) for each of the Armed Forces, the programs that are in place to identify and treat cases of post-traumatic stress disorder and related conditions; and

(B) for persons returning from deployments in connection with Operation Enduring Freedom and Operation Iraqi Freedom—

(i) the number of persons treated as a result of such screenings; and

(ii) the types of interventions.

(c) ACQUISITION OF SUPPORTING INFORMATION.—In preparing the report under subsection (a), the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Defense and the Secretaries of the military departments.

(2) The Secretary of Veterans Affairs.

(3) The Secretary of Labor.

(4) Members of the Armed Forces who have received transition assistance under the programs covered by the report and members of the Armed Forces who have declined to accept transition assistance offered under such programs.

(5) Representatives of military service organizations and representatives of veterans' service organizations.

(6) Persons having expertise in health care (including mental health care) provided under the Defense Health Program, including Department of Defense personnel, Department of Veterans Affairs personnel, and persons in the private sector.

**SEC. 599. STUDY ON COORDINATION OF JOB TRAINING STANDARDS WITH CERTIFICATION STANDARDS FOR MILITARY OCCUPATIONAL SPECIALTIES.**

(a) STUDY REQUIRED.—The Secretary of Defense and the Secretary of Labor shall jointly carry out a study to determine ways to coordinate the standards applied by the Armed Forces for the training and certification of members of the Armed Forces in military occupational specialties with the standards that are applied to corresponding civilian occupations by occupational licensing or certification agencies of governments and occupational certification agencies in the private sector.

(b) SUBMISSION OF REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report containing the results of the study under subsection (a).

# TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

**Subtitle A—Pay and Allowances**

Sec. 601. Increase in basic pay for fiscal year 2005.
Sec. 602. Relationship between eligibility to receive supplemental subsistence allowance and eligibility to receive imminent danger pay, family separation allowance, and certain Federal assistance.
Sec. 603. Authority to provide family separation basic allowance for housing.
Sec. 604. Geographic basis for housing allowance during short-assignment permanent changes of station for education or training.
Sec. 605. Immediate lump-sum reimbursement for unusual nonrecurring expenses incurred for duty outside the continental United States.
Sec. 606. Authority for certain members deployed in combat zones to receive limited advances on future basic pay.

Sec. 607. Repeal of requirement that members entitled to basic allowance for subsistence pay subsistence charges while hospitalized.

**Subtitle B—Bonuses and Special and Incentive Pays**

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
Sec. 614. One-year extension of other bonus and special pay authorities.
Sec. 615. Authority to provide hazardous duty incentive pay to military firefighters.
Sec. 616. Reduced service obligation for nurses receiving nurse accession bonus.
Sec. 617. Assignment incentive pay.
Sec. 618. Modification of active and reserve component reenlistment and enlistment bonus authorities.
Sec. 619. Bonus for certain initial service of officers in the Selected Reserve.
Sec. 620. Revision of authority to provide foreign language proficiency pay.
Sec. 621. Eligibility of enlisted members to qualify for critical skills retention bonus while serving on indefinite reenlistment.
Sec. 622. Eligibility of reserve component members for incentive bonus for conversion to military occupational specialty to ease personnel shortage.
Sec. 623. Permanent increase in authorized amounts for imminent danger special pay and family separation allowance.

**Subtitle C—Travel and Transportation Allowances**

Sec. 631. Travel and transportation allowances for family members to attend burial ceremony or memorial service of member who dies on duty.
Sec. 632. Transportation of family members incident to serious illness or injury of members of the uniformed services.
Sec. 633. Reimbursement for certain lodging costs incurred in connection with dependent student travel.

**Subtitle D—Retired Pay and Survivor Benefits**

Sec. 641. Computation of high-36 month average for reserve component members retired for disability while on active duty or dying while on active duty.
Sec. 642. Repeal of phase-in of concurrent receipt of retired pay and veterans' disability compensation for military retirees with service-connected disabilities rated as 100 percent.
Sec. 643. Death benefits enhancement.
Sec. 644. Phased elimination of two-tier annuity computation for surviving spouses under Survivor Benefit Plan.
Sec. 645. One-year open enrollment period for Survivor Benefit Plan commencing October 1, 2005.

**Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits**

Sec. 651. Consolidation and reorganization of legislative provisions regarding defense commissary system and exchanges and other morale, welfare, and recreation activities.
Sec. 652. Consistent State treatment of Department of Defense Nonappropriated Fund Health Benefits Program.

**Subtitle F—Other Matters**

Sec. 661. Eligibility of members for reimbursement of expenses incurred for adoption placements made by foreign governments.
Sec. 662. Clarification of education loans qualifying for education loan repayment program for reserve component health professions officers.
Sec. 663. Receipt of pay by reservists from civilian employers while on active duty in connection with a contingency operation.
Sec. 664. Relief for mobilized reservists from certain Federal agricultural loan obligations.
Sec. 665. Survey and analysis of effect of extended and frequent mobilization of reservists for active duty service on reservist income.
Sec. 666. Study of disability benefits for veterans of service in the Armed Forces with service-connected disabilities.

# Subtitle A—Pay and Allowances

**SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2005.**

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2005 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, 2005, the rates of monthly basic pay for members of the uniformed services are increased by 3.5 percent.

**SEC. 602. RELATIONSHIP BETWEEN ELIGIBILITY TO RECEIVE SUPPLEMENTAL SUBSISTENCE ALLOWANCE AND ELIGIBILITY TO RECEIVE IMMINENT DANGER PAY, FAMILY SEPARATION ALLOWANCE, AND CERTAIN FEDERAL ASSISTANCE.**

(a) ENTITLEMENT NOT AFFECTED BY RECEIPT OF IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE.—Subsection (b) of section 402a of title 37, United States Code, is amended—

(1) in paragraph (2), by striking "the Secretary—" and all that follows through "shall take into consideration" and inserting "the Secretary concerned shall take into consideration"; and

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

"(3) In determining whether a member meets the eligibility criteria under paragraph (1), the Secretary concerned shall not take into consideration—

"(A) the amount of the supplemental subsistence allowance that is payable under this section;

"(B) the amount of any special pay that is payable to the member under section 310 of this section, relating to duty subject to hostile fire or imminent danger; or

"(C) the amount of any family separation allowance that is payable to the member under section 427 of this title.".

(b) RELATION TO OTHER FEDERAL ASSISTANCE.—Such section is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

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

"(g) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—(1) A child or spouse of a member of the armed forces receiving the supplemental subsistence allowance under this section who, except on account of the receipt of such allowance, would be eligible to receive a benefit described in paragraph (2) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.

"(2) The benefits referred to in paragraph (1) are as follows:

"(A) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

"(B) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(C) A service provided under the Head Start Act (42 U.S.C. 9831 et seq.).

"(D) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

"(3) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and that, except on account of the receipt of such allowance, would be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in determining, on or after the date of the enactment of this Act, the eligibility of a person for a supplemental subsistence allowance under section 402a of title 37, United States Code, or for Federal assistance under a law specified in subsection (g) of such section, as so amended.

**SEC. 603. AUTHORITY TO PROVIDE FAMILY SEPARATION BASIC ALLOWANCE FOR HOUSING.**

Section 403(d) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "is entitled to" and inserting "may be paid"; and

(2) in paragraph (4), by striking the first sentence and inserting the following new sentence: "A family separation basic allowance for housing paid to a member under this subsection is in addition to any other allowance or per diem that the member receives under this title.".

**SEC. 604. GEOGRAPHIC BASIS FOR HOUSING ALLOWANCE DURING SHORT-ASSIGNMENT PERMANENT CHANGES OF STATION FOR EDUCATION OR TRAINING.**

Section 403(d) of title 37, United States Code, as amended by section 603, is further amended—

(1) in the subsection heading, by striking "ARE UNABLE TO" and inserting "DO NOT"; and

(2) in paragraph (3), by adding at the end the following new subparagraph:

"(C) If the member is reassigned for a permanent change of station or permanent change of assignment from a duty station in the United States to another duty station in the United States for a period of not more than one year for the purpose of participating in professional military education or training classes, the amount of the basic allowance for housing for the member may be based on whichever of the following areas the Secretary concerned determines will provide the more equitable basis for the allowance:

"(i) The area of the duty station to which the member is reassigned.

"(ii) The area in which the dependents reside, but only if the dependents reside in that area when the member departs for the duty station to which the member is reassigned and only for the period during which the dependents reside in that area.

"(iii) The area of the former duty station of the member, if different than the area in which the dependents reside.".

**SEC. 605. IMMEDIATE LUMP-SUM REIMBURSEMENT FOR UNUSUAL NONRECURRING EXPENSES INCURRED FOR DUTY OUTSIDE THE CONTINENTAL UNITED STATES.**

(a) ELIGIBILITY FOR REIMBURSEMENT.—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) NONRECURRING EXPENSES.—(1) The Secretary concerned may reimburse a member of the uniformed services on duty as described in subsection (a) for a nonrecurring expense incurred by the member incident to such duty that—

"(A) is directly related to the conditions or location of the duty;

"(B) is of a nature or a magnitude not normally incurred by members of the uniformed services on duty inside the continental United States; and

"(C) is not included in the per diem determined under subsection (b) as payable to the member under subsection (a).

"(2) Any reimbursement provided to a member under paragraph (1) is in addition to a per diem payable to that member under subsection (a).".

(b) USE OF DEFINED TERM CONTINENTAL UNITED STATES.—(1) Subsection (a) of such section is amended by striking "outside of the United States or in Hawaii or Alaska" and inserting "outside of the continental United States".

(2) The heading of such section is amended to read as follows:

**"§ 405. Travel and transportation allowances: per diem while on duty outside the continental United States".**

(3) The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to section 405 and inserting the following new item:

"405. Travel and transportation allowances: per diem while on duty outside the continental United States.".

**SEC. 606. AUTHORITY FOR CERTAIN MEMBERS DEPLOYED IN COMBAT ZONES TO RECEIVE LIMITED ADVANCES ON FUTURE BASIC PAY.**

(a) ADVANCEMENT OF BASIC PAY.—Chapter 3 of title 37, United States Code, is amended by adding at the end the following new section:

**"§ 212. Advancement of basic pay: members deployed in combat zone for more than one year**

"(a) ELIGIBILITY; AMOUNT ADVANCED.—If a member of the armed forces is assigned to duty in an area for which special pay under section 310 of this title is available and the assignment is pursuant to orders specifying an assignment of one year or more (or the assignment is extended beyond one year), the member may request, during the period of the assignment, the advanced payment of not more than three months of the basic pay of the member.

"(b) CONSIDERATION OF REQUEST.—A request by a member described in subsection (a) for the advanced payment of a single month of basic pay shall be granted. The Secretary concerned may grant a member's request for a second or third month of advanced basic pay during the assignment upon a showing of financial hardship.

"(c) RECOUPMENT OF ADVANCED PAY.—The Secretary concerned shall recoup an advance made on the basic pay of a member under this section in equal installments over a one-year period beginning as provided in subsection (d). If the member is serving on active duty for any month during the recoupment period, the amount of the installment for the month shall be deducted from the basic pay of the member for that month. The estate of a deceased member shall not be required to repay any portion of the advanced pay paid to the member and not repaid before the death of the member.

"(d) COMMENCEMENT OF RECOUPMENT.—The recoupment period for an advancement of basic pay to a member under this section shall commence on the first day of the first month beginning on or after the date on which the member receives the advanced pay.".

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

"212. Advancement of basic pay: members deployed in combat zone for more than one year.".

**SEC. 607. REPEAL OF REQUIREMENT THAT MEMBERS ENTITLED TO BASIC ALLOWANCE FOR SUBSISTENCE PAY SUBSISTENCE CHARGES WHILE HOSPITALIZED.**

(a) REPEAL.—(1) Section 1075 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 1075.

(b) CONFORMING AMENDMENT REGARDING MILITARY-CIVILIAN HEALTH SERVICES PARTNERSHIP PROGRAM.—Section 1096(c) of such title is amended—

(1) by inserting "who is a dependent" after "covered beneficiary"; and

(2) by striking "shall pay" and all that follows through the period at the end of paragraph (2) and inserting "shall pay the charges prescribed by section 1078 of this title.".

# Subtitle B—Bonuses and Special and Incentive Pays

**SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(d) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(f) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

**SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.**

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2005" and inserting "January 1, 2006".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and ending on September 30, 2004" and inserting "October 30, 2000, and ending on December 31, 2005".

**SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.**

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

**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, 2004" and inserting "December 31, 2005".

(b) ASSIGNMENT INCENTIVE PAY.—Section 307a(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(d) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(e) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(f) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

**SEC. 615. AUTHORITY TO PROVIDE HAZARDOUS DUTY INCENTIVE PAY TO MILITARY FIREFIGHTERS.**

Section 301 of title 37, United States Code, is amended—

(1) in subsection (d), by inserting "(1)" after "(d)";

(2) by redesignating subsection (e) as paragraph (2) of subsection (d); and

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

"(e) A member of a uniformed service who is entitled to basic pay may be paid incentive pay under this subsection, at a monthly rate not to exceed $150, for any month during which the member performs duty involving regular participation as a firefighting crew member, as determined by the Secretary concerned.".

**SEC. 616. REDUCED SERVICE OBLIGATION FOR NURSES RECEIVING NURSE ACCESSION BONUS.**

(a) PERIOD OF OBLIGATED SERVICE.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "four years" and inserting "three years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into under section 302d of title 37, United States Code, on or after the date of the enactment of this Act.

**SEC. 617. ASSIGNMENT INCENTIVE PAY.**

(a) DISCRETIONARY WRITTEN AGREEMENTS.—Subsection (b) of section 307a of title 37, United States Code, is amended to read as follows:

"(b) WRITTEN AGREEMENT.—The Secretary concerned may require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for incentive pay under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the monthly rate of the incentive pay.".

(b) DISCONTINUATION UPON COMMENCEMENT OF TERMINAL LEAVE.—Subsection (e) of such section is amended by striking "by reason of" and all that follows through the period at the end and inserting "by reason of—

"(1) temporary duty performed by the member pursuant to orders; or

"(2) absence of the member for authorized leave, other than leave authorized for a period ending upon the discharge of the member or the release of the member from active duty.".

(c) EFFECTIVE DATE.—Paragraph (2) of section 307a(e) of title 37, United States Code, as added by subsection (b), shall apply with respect to authorized leave occurring on or after the date of the enactment of this Act.

**SEC. 618. MODIFICATION OF ACTIVE AND RESERVE COMPONENT REENLISTMENT AND ENLISTMENT BONUS AUTHORITIES.**

(a) ACTIVE-DUTY REENLISTMENT BONUS.—(1) Paragraph (1) of subsection (a) of section 308 of title 37, United States Code, is amended—

(A) in the matter preceding subparagraph (A), by striking "A member" and inserting "The Secretary concerned may pay a bonus under paragraph (2) to a member";

(B) in subparagraph (A), by striking "fourteen years" and inserting "16 years";

(C) in subparagraph (D), by striking the semicolon at the end and inserting a period; and

(D) by striking "may be paid a bonus as provided in paragraph (2).".

(2) Paragraph (3) of such subsection is amended by striking "16 years" and inserting "18 years".

(b) SELECTED RESERVE REENLISTMENT BONUS.—(1) Subsection (a) of section 308b of title 37, United States Code, is amended—

(A) in the matter preceding paragraph (1), by striking "An enlisted member" and inserting "The Secretary concerned may pay a bonus under subsection (b) to an enlisted member";

(B) in paragraph (1), by striking "less than 14 years" and inserting "not more than 16 years";

(C) in paragraph (2), by striking the semicolon at the end and inserting a period; and

(D) by striking "may be paid a bonus as provided in subsection (b).".

(2) Subsection (b)(1) of such section is amended—

(A) in subparagraph (A), by striking "$5,000" and inserting "$15,000";

(B) in subparagraph (B), by striking "$2,500" and inserting "$7,500"; and

(C) in subparagraph (C), by striking "$2,000" and inserting "$6,000".

(3) Paragraph (2) of subsection (b) of such section is amended to read as follows:

"(2) Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount. The Secretary concerned shall prescribe the amount of each subsequent installment payment and the schedule for making the installment payments.".

(4) Subsection (c) of such section is amended—

(A) in the subsection heading, by striking "; LIMITATION ON NUMBER OF BONUSES"; and

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

(c) SELECTED RESERVE ENLISTMENT BONUS.—(1) Subsection (b) of section 308c of title 37, United States Code, is amended by striking "$8,000" and inserting "$10,000".

(2) Subsection (f) of such section is amended to read as follows:

"(f) A member entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.".

(d) READY RESERVE ENLISTMENT BONUS FOR PERSONS WITHOUT PRIOR SERVICE.—Section 308g(b) of title 37, United States Code, is amended—

(1) by striking "$1,000" and inserting "$3,000"; and

(2) by adding at the end the following new sentence: "A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.".

(e) PRIOR SERVICE READY RESERVE BONUS.—Section 308h(b) of title 37, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$1,500" and inserting "$3,000";

(2) in paragraph (2)(B), by striking "$750" and inserting "$1,500"; and

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

"(4) A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.".

(f) PRIOR SERVICE ENLISTMENT BONUS FOR SELECTED RESERVE.—(1) Subsection (a)(2)(A) of section 308i of title 37, United States Code, is amended by striking "less than 14 years" and inserting "not more than 16 years".

(2) Paragraph (1) of subsection (b) of such section is amended—

(A) in subparagraph (A), by striking "$8,000" and inserting "$15,000";

(B) in subparagraph (B), by striking "$4,000" and inserting "$7,500"; and

(C) in subparagraph (C), by striking "$3,500" and inserting "$6,000".

(3) Such subsection is further amended by adding at the end the following new paragraph:

"(3) A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.".

(g) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply only with respect to the computation of a bonus under section 308(a)(2)(A) of title 37, United States Code, made on or after the date of the enactment of this Act.

**SEC. 619. BONUS FOR CERTAIN INITIAL SERVICE OF OFFICERS IN THE SELECTED RESERVE.**

(a) AUTHORITY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 308i the following new section:

**"§ 308j. Special pay: bonus for certain initial service of officers in the Selected Reserve**

"(a) AFFILIATION BONUS.—(1) The Secretary concerned may pay an affiliation bonus under this section to an eligible officer in any of the armed forces who enters into an agreement with the Secretary to serve, for the period specified in the agreement, in

the Selected Reserve of the Ready Reserve of an armed force under the Secretary's jurisdiction—

"(A) in a critical officer skill designated under paragraph (3); or

"(B) to meet a manpower shortage in—

"(i) a unit of that Selected Reserve; or

"(ii) a particular pay grade in that armed force.

"(2) An officer is eligible for an affiliation bonus under this section if the officer—

"(A) either—

"(i) is serving on active duty for a period of more than 30 days; or

"(ii) is a member of a reserve component not on active duty and, if the member formerly served on active duty, was released from active duty under honorable conditions;

"(B) has not previously served in the Selected Reserve of the Ready Reserve; and

"(C) is not entitled to receive retired or retainer pay.

"(3)(A) The Secretary concerned shall designate for an armed force under the Secretary's jurisdiction the critical officer skills to which the bonus authority under this subsection is to be applied.

"(B) A skill may be designated as a critical officer skill for an armed force under subparagraph (A) if, to meet requirements of that armed force, it is critical for that armed force to have a sufficient number of officers who are qualified in that skill.

"(4) An affiliation bonus payable pursuant to an agreement under this section to an eligible officer accrues on the date on which the person is assigned to a unit or position in the Selected Reserve pursuant to such agreement.

"(b) ACCESSION BONUS.—(1) The Secretary concerned may pay an accession bonus under this section to an eligible person who enters into an agreement with the Secretary—

"(A) to accept an appointment as an officer in the armed forces; and

"(B) to serve in the Selected Reserve of the Ready Reserve in a skill designated under paragraph (2) for a period specified in the agreement.

"(2)(A) The Secretary concerned shall designate for an armed force under the Secretary's jurisdiction the officer skills to which the authority under this subsection is to be applied.

"(B) A skill may be designated for an armed force under subparagraph (A) if, to mitigate a current or projected significant shortage of personnel in that armed force who are qualified in that skill, it is critical to increase the number of persons accessed into that armed force who are qualified in that skill or are to be trained in that skill.

"(3) An accession bonus payable to a person pursuant to an agreement under this section accrues on the date on which that agreement is accepted by the Secretary concerned.

"(c) PERIOD OF OBLIGATED SERVICE.—An agreement entered into with the Secretary concerned under this section shall require the person entering into that agreement to serve in the Selected Reserve for a specified period. The period specified in the agreement shall be any period not less than three years that the Secretary concerned determines appropriate to meet the needs of the reserve component in which the service is to be performed.

"(d) AMOUNT.—The amount of a bonus under this section may be any amount not in excess of $6,000 that the Secretary concerned determines appropriate.

"(e) PAYMENT.—(1) Upon acceptance of a written agreement by the Secretary concerned under this section, the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus is to be paid in one lump sum or in installments.

"(2) A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

"(f) RELATION TO OTHER ACCESSION BONUS AUTHORITY.—A person may not receive an affiliation bonus or accession bonus under this section and financial assistance under chapter 1608, 1609, or 1611 of title 10, or under section 302g of this title, for the same period of service.

"(g) REPAYMENT FOR FAILURE TO COMMENCE OR COMPLETE OBLIGATED SERVICE.—(1) A person who, after receiving all or part of the bonus under an agreement entered into by that person under this section, does not accept a commission or an appointment as an officer or does not commence to participate or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement shall repay to the United States such compensation or benefit, except under conditions prescribed by the Secretary concerned.

"(2) The Secretary concerned shall include in each agreement entered into by the Secretary under this section the requirements that apply for any repayment under this subsection, including the method for computing the amount of the repayment and any exceptions.

"(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 this section does not discharge a person from a debt arising under an agreement entered into under this subsection or a debt arising under paragraph (1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308i the following new item:

"308j. Special pay: bonus for certain initial service of officers in the Selected Reserve.".

**SEC. 620. REVISION OF AUTHORITY TO PROVIDE FOREIGN LANGUAGE PROFICIENCY PAY.**

(a) IN GENERAL.—(1) Section 316 of title 37, United States Code, is amended to read as follows:

**"§ 316. Special pay and bonus for members with foreign language proficiency**

"(a) AVAILABILITY OF SPECIAL PAY.—Subject to subsection (c), the Secretary concerned may pay monthly special pay under this section to a member of the uniformed services who is entitled to basic pay under section 204 of this title and who—

"(1) is qualified in a uniformed services specialty requiring proficiency in a foreign language identified by the Secretary

concerned as a foreign language in which it is necessary to have personnel proficient because of national defense or public health considerations;

"(2) received training, under regulations prescribed by the Secretary concerned, designed to develop a proficiency in such a foreign language;

"(3) is assigned to duties requiring a proficiency in such a foreign language; or

"(4) is proficient in a foreign language for which the uniformed service may have a critical need, as determined by the Secretary concerned.

"(b) AVAILABILITY OF BONUS.—Subject to subsection (c), the Secretary concerned may pay an annual bonus under this section to a member of a reserve component who satisfies the eligibility requirements specified in paragraph (1), (2), (3), or (4) of subsection (a).

"(c) CERTIFICATION OF PROFICIENCY.—To be eligible to receive special pay or a bonus under this section, a member described in subsection (a) or (b) must be certified by the Secretary concerned as being proficient in the foreign language for which the special pay or bonus is offered. The certification of the member shall expire at the end of the one-year period beginning on the first day of the first month beginning on or after the certification date.

"(d) SPECIAL PAY AND BONUS AMOUNTS.—(1) The monthly rate for special pay paid under subsection (a) may not exceed $1,000.

"(2) The maximum amount of the bonus paid to a member under subsection (b) may not exceed $6,000 for the one-year period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period.

"(e) RELATIONSHIP TO OTHER PAY OR ALLOWANCE.—(1) Except as provided in paragraph (2), special pay or a bonus paid under this section is in addition to any other pay or allowance payable to a member under any other provision of law.

"(2) If a member of a reserve component serving on active duty receives special pay under subsection (a) for any month occurring during a certification period in which the member received, or is receiving, a bonus under subsection (b), the amount of the special pay paid to the member for the month shall be reduced by an amount equal to 1/12 of the bonus amount.

"(f) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—(1) Notwithstanding subsection (c), the Secretary concerned may waive the certification requirement under such subsection and pay monthly special pay or a bonus under this section to a member who—

"(A) is assigned to duty in connection with a contingency operation;

"(B) is unable to schedule or complete the certification required by subsection (c) because of that assignment; and

"(C) except for the lack of such certification, satisfies the eligibility requirements for receipt of special pay under subsection (a) or a bonus under subsection (b), whichever applies to the member.

"(2) For purposes of providing an annual bonus to a member under the authority of this subsection, the Secretary concerned may treat the date on which the member was assigned to duty

in connection with the contingency operation as equivalent to a certification date. In the case of a member whose certification will expire during such a duty assignment, the Secretary shall commence the next one-year certification period on the date on which the prior certification period expires.

"(3) A member who is paid special pay or a bonus under the authority of this subsection shall complete the certification required by subsection (c) for the foreign language for which the special pay or bonus was paid not later than the end of the 180-day period beginning on the date on which the member is released from the assignment in connection with the contingency operation. The Secretary concerned may extend that period for a member in accordance with regulations prescribed under subsection (h).

"(4) If a member fails to obtain the required certification under subsection (c) before the end of the period provided under paragraph (3), the Secretary concerned may require the member to repay all or a portion of the bonus in the manner provided in subsection (g).

"(g) REPAYMENT OF BONUS.—(1) The Secretary concerned may require a member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, to repay to the United States an amount which bears the same ratio to the total amount of the bonus paid to the member as the unsatisfied portion of the certification period bears to the entire certification period.

"(2) An obligation to repay the United States imposed under paragraph (1) or subsection (f)(4) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.

"(h) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration.".

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316 and inserting the following new item:

"316. Special pay and bonus for members with foreign language proficiency.".

(b) CONFORMING AMENDMENTS.—(1) Section 316a of title 37, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316a.

**SEC. 621. ELIGIBILITY OF ENLISTED MEMBERS TO QUALIFY FOR CRITICAL SKILLS RETENTION BONUS WHILE SERVING ON INDEFINITE REENLISTMENT.**

Section 323(a) of title 37, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "other than an enlisted member referred to in paragraph (3)," after "enlisted member,"; and

(B) by striking the period at the end and inserting "; or"; and

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

"(3) in the case of an enlisted member serving pursuant to an indefinite reenlistment, the member executes a written agreement to remain on active duty for a period of at least one year.".

**SEC. 622. ELIGIBILITY OF RESERVE COMPONENT MEMBERS FOR INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.**

(a) ELIGIBILITY.—Section 326 of title 37, United States Code, is amended—

(1) in subsection (a), by inserting "of a regular or reserve component" after "an eligible member";

(2) in subsection (b)—

(A) by striking "if—" and all that follows through "at the time" and inserting "if, at the time"; and

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(3) in subsection (c)(2), by inserting "regular or reserve component of the" after "chief personnel officer of the".

(b) AMOUNT OF BONUS.—Subsection (c)(1) of such section is amended by inserting before the period at the end the following: ", in the case of a member of a regular component of the armed forces, and $2,000, in the case of a member of a reserve component of the armed forces".

**SEC. 623. PERMANENT INCREASE IN AUTHORIZED AMOUNTS FOR IMMINENT DANGER SPECIAL PAY AND FAMILY SEPARATION ALLOWANCE.**

(a) IMMINENT DANGER PAY.—(1) Subsection (e) of section 310 of title 37, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(2) Effective January 1, 2006, such section is further amended—

(A) in subsection (a), by striking "$150" and inserting "$225"; and

(B) by striking subsection (e).

(b) FAMILY SEPARATION ALLOWANCE.—(1) Subsection (e) of section 427 of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(2) Effective January 1, 2006, such section is further amended—

(A) in subsection (a)(1), by striking "$100" and inserting "$250"; and

(B) by striking subsection (e).

# Subtitle C—Travel and Transportation Allowances

**SEC. 631. TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO ATTEND BURIAL CEREMONY OR MEMORIAL SERVICE OF MEMBER WHO DIES ON DUTY.**

(a) AUTHORIZED TRAVEL DESTINATIONS.—Subsection (a)(1) of section 411f of title 37, United States Code, is amended by inserting before the period at the end the following: "at the location determined under subsection (a)(8) of section 1482 of title 10 or attend a memorial service for the deceased member, under circumstances covered by subsection (d) of such section".

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

"(b) LIMITATION ON AMOUNT.—Allowances for travel under subsection (a) may not exceed the rates for two days and the time necessary for such travel.".

(c) UNCONDITIONAL ELIGIBILITY OF DECEASED'S PARENTS.—Subsection (c)(1)(C) of such section is amended by striking "If no person described in subparagraph (A) or (B) is provided travel and transportation allowances under subsection (a)(1), the" and inserting "The".

**SEC. 632. TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO SERIOUS ILLNESS OR INJURY OF MEMBERS OF THE UNIFORMED SERVICES.**

(a) REMOVAL OF LIMITATION ON NUMBER OF FAMILY MEMBERS.—Subsection (a)(1) of section 411h of title 37, United States Code, is amended—

(1) by striking "two family members" and inserting "three family members"; and

(2) by adding at the end the following new sentence: "In circumstances determined to be appropriate by the Secretary concerned, the Secretary may waive the limitation on the number of family members provided travel and transportation under this section.".

(b) AVAILABILITY OF PER DIEM.—Such section is further amended—

(1) in subsection (a)(1), by inserting "travel and" before "transportation"; and

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

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

"(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.".

(c) EFFECTIVE DATE.—Section 411h of title 37, United States Code, as amended by this section, shall apply to travel and transportation authorized under such section that is provided on or after October 1, 2004, to family members of a member of the Armed Forces who is ill or injured as described in such section.

**SEC. 633. REIMBURSEMENT FOR CERTAIN LODGING COSTS INCURRED IN CONNECTION WITH DEPENDENT STUDENT TRAVEL.**

Section 430(b) of title 37, United States Code, is amended—

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

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

"(2) The allowance authorized under paragraph (1) for the travel of an eligible dependent may include reimbursement for costs incurred by or on behalf of the dependent for lodging of the dependent that is necessitated by an interruption in the travel caused by extraordinary circumstances prescribed in the regulations under subsection (a). The amount of the reimbursement shall be determined using the rate applicable to such circumstances.".

# Subtitle D—Retired Pay and Survivor Benefits

**SEC. 641. COMPUTATION OF HIGH-36 MONTH AVERAGE FOR RESERVE COMPONENT MEMBERS RETIRED FOR DISABILITY WHILE ON ACTIVE DUTY OR DYING WHILE ON ACTIVE DUTY.**

(a) COMPUTATION OF HIGH-36 MONTH AVERAGE.—Subsection (c) of section 1407 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR RESERVE COMPONENT MEMBERS.—In the case of a member of a reserve component who is entitled to retired pay under section 1201 or 1202 of this title, the member's high-three average (notwithstanding paragraphs (1) and (2)) is computed in the same manner as prescribed in paragraphs (2) and (3) of subsection (d) for a member entitled to retired pay under section 1204 or 1205 of this title.".

(b) EFFECTIVE DATE.—Paragraph (3) of section 1407(c) of title 10, United States Code, as added by subsection (a), shall take effect—

(1) for purposes of determining an annuity under subchapter II or III of chapter 73 of that title, with respect to deaths on active duty on or after September 10, 2001; and

(2) for purposes of determining the amount of retired pay of a member of a reserve component entitled to retired pay under section 1201 or 1202 of such title, with respect to such entitlement that becomes effective on or after the date of the enactment of this Act.

**SEC. 642. REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR MILITARY RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED AS 100 PERCENT.**

(a) TERMINATION OF PHASE-IN AT END OF 2004.—Subsection (a)(1) of section 1414 of title 10, United States Code, is amended by inserting before the period at the end the following: ", except that in the case of a qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004".

(b) CONFORMING AMENDMENT.—Subsection (c) of such section is amended in the matter preceding paragraph (1) by inserting "that pursuant to the second sentence of subsection (a)(1) is subject to this subsection" after "a qualified retiree".

**SEC. 643. DEATH BENEFITS ENHANCEMENT.**

(a) ACTIONS ON FISCAL YEAR 2004 DEATH BENEFITS STUDY.—(1) The Secretary of Defense shall expedite the completion and submission of the report, which was due on March 1, 2004, of the results of the study of the Federal death benefits for survivors of deceased members of the Armed Forces required by section 647(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1520).

(2) The President should promptly transmit to Congress any recommendation for legislation, together with a request for appropriations, that the President determines necessary to implement any death benefits enhancements that are recommended in the report referred to in paragraph(1).

(b) INCREASES OF DEATH GRATUITY CONSISTENT WITH INCREASES OF RATES OF BASIC PAY.—Section 1478 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "(as adjusted under subsection (c))" before the period at the end of the first sentence; and

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

"(c) Effective on the date on which rates of basic pay under section 204 of title 37 are increased under section 1009 of that title or any other provision of law, the amount of the death gratuity in effect under subsection (a) shall be increased by the same overall average percentage of the increase in the rates of basic pay taking effect on that date.".

(c) FISCAL YEAR 2005 ACTIONS.—At the same time that the President transmits to Congress the budget for fiscal year 2006 under section 1105(a) of title 31, United States Code, the President shall transmit to Congress assessments and recommendations regarding legislation on proposals that would provide enhanced death benefits for survivors of deceased members of the uniformed services. Those assessments and recommendations regarding legislation shall include provisions for the following:

(1) Revision of the Servicemembers' Group Life Insurance program under chapter 19 of title 38, United States Code, to provide for—

(A) an increase in the maximum benefit amount provided under that program from $250,000 to $350,000;

(B) an increase, each fiscal year, in that maximum benefit amount by the same overall average percentage increase that takes effect during such fiscal year in the rates of basic pay under section 204 of title 37, United States Code; and

(C) a minimum benefit amount of $100,000 at no cost to the insured members of the uniformed services who elect the maximum coverage, together with an increase in such minimum benefit each fiscal year by the same percentage increase as is described in subparagraph (B).

(2) An additional set of death benefits for each member of the uniformed services who dies in the line of duty while

on active duty that includes, at a minimum, an additional death gratuity in the amount that—

(A) in the case of a member not described in subparagraph (B), is equal to the sum of—

(i) the total amount of the basic pay to which the deceased member would have been entitled under section 204 of title 37, United States Code, if the member had not died and had continued to serve on active duty for an additional year; and

(ii) the total amount of all allowances and special pays that the member would have been entitled to receive under title 37, United States Code, over the one-year period beginning on the member's date of death as if the member had not died and had continued to serve on active duty for an additional year with the unit to which the member was assigned or detailed on such date; and

(B) in the case of a member who dies as a result of an injury caused by or incurred while exposed to hostile action (including any hostile fire or explosion and any hostile action from a terrorist source), is equal to twice the amount calculated under subparagraph (A).

(3) Any other new death benefits or enhancement of existing death benefits that the President recommends.

(4) Retroactive applicability of the benefits referred to in paragraph (2) and, as appropriate, the benefits recommended under paragraph (3) so as to provide the benefits—

(A) for members of the uniformed services who die in line of duty on or after October 7, 2001, of a cause incurred or aggravated while deployed in support of Operation Enduring Freedom; and

(B) for members of the uniformed services who die in line of duty on or after March 19, 2003, of a cause incurred or aggravated while deployed in support of Operation Iraqi Freedom.

(d) CONSULTATION.—The President shall consult with the Secretary of Defense and the Secretary of Veterans Affairs in developing the assessments and recommendations required under subsection (c).

(e) FISCAL YEAR 2006 BUDGET SUBMISSION.—The budget for fiscal year 2006 that is transmitted to Congress under section 1105(a) of title 31, United States Code, shall include assessments and recommendations on legislation (other than draft appropriations) that includes provisions that, on the basis of the assumption that any draft legislation transmitted under subsection (c) would be enacted and would take effect in fiscal year 2006—

(1) would offset fully the increased outlays that would result from enactment of the provisions of any draft legislation transmitted under subsection (c), for fiscal year 2006 and each of the succeeding nine fiscal years;

(2) expressly state that they are proposed for the purpose of the offset described in paragraph (1); and

(3) are included in full in 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 fiscal years referred to in paragraph (1).

(f) EARLY SUBMISSION OF PROPOSAL FOR ADDITIONAL DEATH BENEFITS.—Congress urges the President to transmit any draft of legislation for the additional set of death benefits under paragraph (2) of subsection (c) before the time for submission required under that subsection and as soon as is practicable after the date of the enactment of this Act.

**SEC. 644. PHASED ELIMINATION OF TWO-TIER ANNUITY COMPUTATION FOR SURVIVING SPOUSES UNDER SURVIVOR BENEFIT PLAN.**

(a) PHASED INCREASE IN BASIC ANNUITY.—

(1) STANDARD ANNUITY.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (a)(1)(B) of section 1451 of title 10, United States Code, is amended by striking "35 percent of the base amount." and inserting "the product of the base amount and the percent applicable to the month, as follows:

"(I) For a month before October 2005, the applicable percent is 35 percent.

"(II) For months after September 2005 and before April 2006, the applicable percent is 40 percent.

"(III) For months after March 2006 and before April 2007, the applicable percent is 45 percent.

"(IV) For months after March 2007 and before April 2008, the applicable percent is 50 percent.

"(V) For months after March 2008, the applicable percent is 55 percent.".

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking ", at the time the beneficiary becomes entitled to the annuity,".

(2) RESERVE-COMPONENT ANNUITY.—Subsection (a)(2)(B)(i)(I) of such section is amended by striking "35 percent" and inserting "the percent specified under subsection (a)(1)(B)(i) as being applicable for the month".

(3) SURVIVORS OF ELIGIBLE PERSONS DYING ON ACTIVE DUTY, ETC.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (c)(1)(B) of such section is amended—

(i) by striking "35 percent" and inserting "the applicable percent"; and

(ii) by adding at the end the following: "The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for that month.".

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking ", at the time the beneficiary becomes entitled to the annuity,".

(4) CLERICAL AMENDMENT.—The heading for subsection (d)(2)(A) of such section is amended to read as follows: "COMPUTATION OF ANNUITY.—".

(b) CORRESPONDING PHASED ELIMINATION OF SUPPLEMENTAL ANNUITY.—

(1) PHASED REDUCTION OF SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

(A) by striking "5, 10, 15, or 20 percent" and inserting "the applicable percent"; and

(B) by inserting after the first sentence the following: "The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months before October 2005, 15 percent for months after September 2005 and before April 2006, 10 percent for months after March 2006 and before April 2007, and 5 percent for months after March 2007 and before April 2008.".

(2) REPEAL UPON IMPLEMENTATION OF 55 PERCENT SBP ANNUITY.—Effective on April 1, 2008, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) RECOMPUTATION OF ANNUITIES.—

(1) PERIODIC RECOMPUTATION REQUIRED.—Effective on the first day of each month specified in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) TIME FOR RECOMPUTATION.—The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

(A) October 2005.

(B) April 2006.

(C) April 2007.

(D) April 2008.

(d) TERMINATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—(1) Except as provided in paragraph (2), there shall be no reduction in retired pay under section 1460 of title 10, United States Code, for any month beginning after the date of the enactment of this Act.

(2) Reductions in retired pay under section 1460 of title 10, United States Code, shall be made for months after September 2005 in the case of coverage under subchapter III of chapter 73 of title 10, United States Code, that is provided (for new coverage or increased coverage) through an election under the open season provided by section 645. The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that reductions in retired pay under section 1460 of title 10, United

States Code, pursuant to the preceding sentence are adjusted to achieve the objectives set forth in subsection (b) of that section.

**SEC. 645. ONE-YEAR OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005.**

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the

maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan is to be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section 1451(e). Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD.—The open enrollment period under this section is the one-year period beginning on October 1, 2005.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) PREMIUM FOR OPEN ENROLLMENT ELECTION.—

(1) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(A) the total amount by which the retired pay of the person would have been reduced before the effective date

of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) PREMIUMS TO BE CREDITED TO RETIREMENT FUND.—Premiums paid under the regulations under paragraph (1) shall be credited to the Department of Defense Military Retirement Fund.

(h) DEFINITIONS.—In this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "Supplemental Survivor Benefit Plan" means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(4) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

(5) The term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

# Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

**SEC. 651. CONSOLIDATION AND REORGANIZATION OF LEGISLATIVE PROVISIONS REGARDING DEFENSE COMMISSARY SYSTEM AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES.**

(a) PROVISIONS RELATED TO COMMISSARY STORES.—Chapter 147 of title 10, United States Code, is amended—

(1) by striking the table of sections at the beginning of the chapter and sections 2481, 2483, 2485, and 2487;

(2) by redesignating sections 2482, 2484, and 2486 as sections 2485, 2483 and 2484, respectively;

(3) by inserting after the chapter heading the following:

| "Subchapter | Sec. |
|---|---|
| "I. Defense Commissary and Exchange Systems | 2481 |

"II. Relationship, Continuation, and Common Policies of Defense Commissary and Exchange Systems ..... 2487
"III. Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities ..... 2491

## "SUBCHAPTER I—DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

"Sec.
"2481. Defense commissary and exchange systems: existence and purpose
"2482. Commissary stores: criteria for establishment or closure; store size.
"2483. Commissary stores: use of appropriated funds to cover operating expenses.
"2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.
"2485. Commissary stores: operation.

### "§ 2481. Defense commissary and exchange systems: existence and purpose

"(a) SEPARATE SYSTEMS.—The Secretary of Defense shall operate, in the manner provided by this chapter and other provisions of law, a world-wide system of commissary stores and a separate world-wide system of exchange stores. The stores of each system may sell, at reduced prices, food and other merchandise to members of the uniformed services on active duty, members of the uniformed services entitled to retired pay, dependents of such members, and persons authorized to use the system under chapter 54 of this title.

"(b) PURPOSE OF SYSTEMS.—The defense commissary system and the exchange system are intended to enhance the quality of life of members of the uniformed services, retired members, and dependents of such members, and to support military readiness, recruitment, and retention.

"(c) OVERSIGHT.—(1) The Secretary of Defense shall designate a senior official of the Department of Defense to oversee the operation of both the defense commissary system and the exchange system.

"(2) The Secretary of Defense shall establish an executive governing body to provide advice to the senior official designated under paragraph (1) regarding the operation of the defense commissary and exchange systems and to ensure the complementary operation of the systems.

"(d) REDUCED PRICES DEFINED.—In this section, the term 'reduced prices' means prices for food and other merchandise determined using the price setting process specified in section 2484 of this title.

### "§ 2482. Commissary stores: criteria for establishment or closure; store size

"(a) PRIMARY CONSIDERATION FOR ESTABLISHMENT.—The needs of members of the armed forces on active duty and the needs of dependents of such members shall be the primary consideration whenever the Secretary of Defense—

"(1) assesses the need to establish a commissary store; and

"(2) selects the actual location for the store.

"(b) STORE SIZE.—In determining the size of a commissary store, the Secretary of Defense shall take into consideration the number of all authorized patrons of the defense commissary system who are likely to use the store.

"(c) CLOSURE CONSIDERATIONS.—(1) Whenever assessing whether to close a commissary store, the effect of the closure on the quality of life of members and dependents referred to in subsection (a) who use the store and on the welfare and security of the military community in which the commissary is located shall be a primary consideration.

"(2) Whenever assessing whether to close a commissary store, the Secretary of Defense shall also consider the effect of the closure on the quality of life of members of the reserve components of the armed forces.

"(d) CONGRESSIONAL NOTIFICATION.—(1) The closure of a commissary store shall not take effect until the end of the 90-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of life for military patrons and the welfare and security of the military community in which the commissary is located.

"(2) Paragraph (1) shall not apply in the case of the closure of a commissary store as part of the closure of a military installation under a base closure law.";

(4) by inserting sections 2483 and 2484, as redesignated by paragraph (2), after section 2482, as added by paragraph (3);

(5) in section 2484, as redesignated by paragraph (2)—

(A) by striking subsections (a), (b), (c), and (g);

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

(C) by inserting before subsection (f), as so redesignated, the following new subsections:

"(a) IN GENERAL.—As provided in section 2481(a) of this title, commissary stores are intended to be similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

"(b) AUTHORIZED COMMISSARY MERCHANDISE CATEGORIES.—Merchandise sold in, at, or by commissary stores may include items in the following categories:

"(1) Meat, poultry, seafood, and fresh-water fish.

"(2) Nonalcoholic beverages.

"(3) Produce.

"(4) Grocery food, whether stored chilled, frozen, or at room temperature.

"(5) Dairy products.

"(6) Bakery and delicatessen items.

"(7) Nonfood grocery items.

"(8) Tobacco products.

"(9) Health and beauty aids.

"(10) Magazines and periodicals.

"(c) INCLUSION OF OTHER MERCHANDISE ITEMS.—(1) The Secretary of Defense may authorize the sale in, at, or by commissary stores of merchandise not covered by a category specified in subsection (b). The Secretary shall notify Congress of all merchandise authorized for sale pursuant to this paragraph, as well as the removal of any such authorization.

"(2) Notwithstanding paragraph (1), the Department of Defense military resale system shall continue to maintain the exclusive

right to operate convenience stores, shopettes, and troop stores, including such stores established to support contingency operations.

"(3) A military exchange shall be the vendor for the sale of tobacco products in commissary stores and may be the vendor for such merchandise as may be authorized for sale in commissary stores under paragraph (1). Subsections (d) and (e) shall not apply to the pricing of such an item when a military exchange serves as the vendor of the item. Commissary store and exchange prices shall be comparable for such an item.

"(d) UNIFORM SALES PRICE SURCHARGE.—The Secretary of Defense shall apply a uniform surcharge equal to five percent on the sales prices established under subsection (e) for each item of merchandise sold in, at, or by commissary stores.";

(D) in subsection (e), as so redesignated, by striking "(consistent with this section and section 2685 of this title)" in paragraph (1);

(E) in subsection (g), as so redesignated, by striking "Subsections (c) and (d)" and inserting "Subsections (d) and (e)"; and

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

"(h) USE OF SURCHARGE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.—(1)(A) The Secretary of Defense may use the proceeds from the surcharges imposed under subsection (d) only—

"(i) to acquire (including acquisition by lease), construct, convert, expand, improve, repair, maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

"(ii) to cover environmental evaluation and construction costs related to activities described in clause (i), including costs for surveys, administration, overhead, planning, and design.

"(B) In subparagraph (A), the term 'physical infrastructure' includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

"(2)(A) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of surcharges under subsection (d) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(B) In subparagraph (A), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.

"(3) The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the surcharges under subsection (d) for any use specified in paragraph (1) or (2), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in such paragraph.

"(4) Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall

be available for the purposes set forth in paragraphs (1), (2), and (3):

"(A) Sale of recyclable materials.

"(B) Sale of excess and surplus property.

"(C) License fees.

"(D) Royalties.

"(E) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.";

(6) by inserting section 2485, as redesignated by paragraph (2), after section 2484, as amended by paragraph (5); and

(7) in section 2485, as redesignated by paragraph (2)—

(A) in subsection (b)(2), by striking "section 2484" and inserting "section 2483";

(B) in subsection (c)(2), by adding at the end the following new sentences: "The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries."; and

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

"(d) ASSIGNMENT OF ACTIVE DUTY MEMBERS.—(1) Except as provided in paragraph (2), members of the armed forces on active duty may not be assigned to the operation of a commissary store.

"(2)(A) The Secretary of Defense may assign an officer on the active-duty list to serve as the Director of the Defense Commissary Agency.

"(B) Not more than 18 members (in addition to the officer referred to in subparagraph (A)) of the armed forces on active duty may be assigned to the Defense Commissary Agency. Members who may be assigned under this subparagraph to regional headquarters of the agency shall be limited to enlisted members assigned to duty as advisers in the regional headquarters responsible for overseas commissaries and to veterinary specialists.

"(e) REIMBURSEMENT FOR USE OF COMMISSARY FACILITIES BY MILITARY DEPARTMENTS.—(1) The Secretary of a military department shall pay the Defense Commissary Agency the amount determined under paragraph (2) 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.

"(2) The amount payable under paragraph (1) 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.

"(3) The Director of the Defense Commissary Agency shall credit amounts paid under paragraph (1) for use of a facility to an appropriate account to which proceeds of a surcharge applied under section 2484(d) of this title are credited.

"(4) This subsection 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 a surcharge applied under section 2484(d) of this title.

"(f) DONATION OF UNUSABLE FOOD.—(1) The Secretary of Defense may donate food described in paragraph (2) to any of the following entities:

"(A) A charitable nonprofit food bank that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

"(B) A State or local agency that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

"(C) A chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

"(D) A not-for-profit organization that provides care for homeless veterans and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

"(2) Food that may be donated under this subsection is commissary store food, mess food, meals ready-to-eat (MREs), rations known as humanitarian daily rations (HDRs), and other food available to the Secretary of Defense that—

"(A) is certified as edible by appropriate food inspection technicians;

"(B) would otherwise be destroyed as unusable; and

"(C) in the case of commissary store food, is unmarketable and unsaleable.

"(3) In the case of commissary store food, a donation under this subsection shall take place at the site of the commissary store that is donating the food.

"(4) This subsection does not authorize any service (including transportation) to be provided in connection with a donation under this subsection.

"(g) COLLECTION OF DISHONORED CHECKS.—(1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

"(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

"(i) The person who presented the check.

"(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person's eligibility to make purchases at a commissary store.

"(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

"(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

"(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

"(5) In this subsection, the term 'commissary trust revolving fund' means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.

"(h) RELEASE OF CERTAIN COMMERCIALLY VALUABLE INFORMATION TO PUBLIC.—(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 paragraph (3).

"(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.

"(3)(A) The Secretary of Defense may, using competitive procedures, enter into a contract to sell information described in paragraph (2).

"(B) 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.

"(C) The Secretary of Defense shall establish performance benchmarks and shall submit information on customer satisfaction and performance data to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

"(D) 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 paragraph (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.

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

"(4) Information described in paragraph (2) may not be released, under paragraph (3) or otherwise, in a form that identifies any customer or that provides information making it possible to identify any customer.

"(5) Amounts received by the Secretary under this section shall be credited to funds derived from commissary surcharges applied under section 2484(e) of this title, shall be merged with those funds, and shall be available for the same purposes as the funds with which merged.".

(b) RELATION BETWEEN DEFENSE COMMISSARY AND EXCHANGE SYSTEMS.—Chapter 147 of title 10, United States Code, is further amended—

(1) by inserting after section 2485, as amended by subsection (a)(7), the following:

"SUBCHAPTER II—RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

"Sec.
"2487. Relationship between defense commissary system and exchange stores system.
"2488. Combined exchange and commissary stores.
"2489. Overseas commissary and exchange stores: access and purchase restrictions.

**"§ 2487. Relationship between defense commissary system and exchange stores system**

"(a) SEPARATE OPERATION OF SYSTEMS.—(1) Except as provided in paragraph (2), the defense commissary system and the exchange stores system shall be operated as separate systems of the Department of Defense.

"(2) Paragraph (1) does not apply to the following:

"(A) Combined exchange and commissary stores operated under the authority provided by section 2489 of this title.

"(B) NEXMART stores of the Navy Exchange Service Command established before October 1, 2003.

"(b) CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEFENSE RETAIL SYSTEMS.—(1) The operation and administration of the defense retail systems may not be consolidated or otherwise merged unless the consolidation or merger is specifically authorized by an Act of Congress.

"(2) In this subsection, the term 'defense retail systems' means the defense commissary system and exchange stores system and other revenue-generating facilities operated by nonappropriated fund instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.";

(2) by redesignating sections 2488, 2489, 2489a as sections 2495, 2495a, and 2495b, respectively; and

(3) by redesignating sections 2490a and 2492 as sections 2488 and 2489, respectively, and inserting such sections after section 2487, as added by paragraph (1).

(c) MWR PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES.—Chapter 147 of title 10, United States Code, is further amended—

(1) by inserting after section 2489, as redesignated and moved by subsection (b)(3), the following:

"SUBCHAPTER III—MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES

"Sec.
"2491. Uniform funding and management of morale, welfare, and recreation programs.
"2491a. Department of Defense golf courses: limitation on use of appropriated funds.
"2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.
"2491c. Retention of morale, welfare, and recreation funds by military installations: limitation.

"2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.
"2493. Fisher Houses: administration as nonappropriated fund instrumentality.
"2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes.
"2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.
"2495a. Overseas package stores: treatment of United States wines.
"2495b. Sale or rental of sexually explicit material prohibited.";

(2) by redesignating section 2494 as section 2491 and inserting such section after the table of sections at the beginning of subchapter III, as added by paragraph (1);

(3) by redesignating section 2482a as section 2492 and inserting such section before section 2493;

(4) by inserting after section 2493 the following new section:

**"§ 2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes**

"Appropriations for the Department of Defense may be used to provide utility services for—

"(1) buildings on military installations authorized by regulation to be used for morale, welfare, and recreation purposes; and

"(2) other morale, welfare, and recreation activities for members of the armed forces."; and

(5) by inserting sections 2495, 2495a, and 2495b, as redesignated by subsection (b)(2), after section 2494, as added by paragraph (4).

(d) INCLUSION OF OTHER TITLE 10 PROVISIONS.—Sections 2246, 2247, and 2219 of title 10, United States Code, are—

(1) transferred to chapter 147 of such title;

(2) inserted after section 2491, as redesignated and moved by subsection (c)(2); and

(3) redesignated as sections 2491a, 2491b, and 2491c, respectively.

(e) CONFORMING AMENDMENTS.—(1) Section 977 of title 10, United States Code, is repealed.

(2) Section 2868 of such title is amended by striking "for—" and all that follows through the period at the end and inserting "for buildings constructed at private cost, as authorized by law.".

(3) Section 367 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1987; 10 U.S.C. 2482 note) is repealed.

(f) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by striking the item relating to section 977.

(2) The table of sections at the beginning of chapter 131 of such title is amended by striking the item relating to section 2219.

(3) The table of sections at the beginning of subchapter I of chapter 134 of such title is amended by striking the items relating to sections 2246 and 2247.

(g) TEST PROGRAM OF SALE OF CERTAIN ITEMS IN COMMISSARY STORES.—(1) The Secretary of Defense may conduct a test program involving the sale of telephone cards, film, and one-time use cameras in not less than 10 commissary stores for a period selected by the Secretary, but not less than six months.

(2) Within 90 days after the completion of the first year of the test program or within 90 days after the completion of the test program, whichever occurs first, 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 containing the results of the test program. The report shall include an analysis of the impact of the sale of such items on the exchange dividend and such recommendations as the Secretary considers appropriate regarding legislative changes necessary to expand the sale of such items in commissary stores.

(h) COMPTROLLER GENERAL STUDY.—(1) The Comptroller General shall conduct a study evaluating the impact that the expansion of the categories of merchandise authorized for sale in commissary stores has on the exchange dividend. The Comptroller General shall determine the amounts derived from exchange sales and allocated as exchange dividends during the five-year period ending on September 30, 2004, and the morale, welfare, and recreation programs supported using such dividends.

(2) The Secretary shall submit the results of the study to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than March 31, 2006.

**SEC. 652. CONSISTENT STATE TREATMENT OF DEPARTMENT OF DEFENSE NONAPPROPRIATED FUND HEALTH BENEFITS PROGRAM.**

Section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1587 note) is amended by adding at the end the following new subsection:

"(c) TREATMENT OF PROGRAM AS FEDERAL HEALTH BENEFIT PROGRAM.—(1) No State tax, fee, other monetary payment, or State health plan requirement, may be imposed, directly or indirectly, on the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or on a carrier or an underwriting or plan administration contractor of the Program, to the same extent as such prohibition applies to the health insurance program authorized by chapter 89 of title 5, United States Code, under section 8909(f) of such title.

"(2) Paragraph (1) shall not be construed to exempt the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or any carrier or underwriting or plan administration contractor of the Program from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to, or realized by, the Program or by such carrier or contractor from business conducted under the Program, so long as the tax, fee, or payment is applicable to a broad range of business activity.

"(3) In this subsection, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any political subdivision or other non-Federal authority thereof.".

## Subtitle F—Other Matters

**SEC. 661. ELIGIBILITY OF MEMBERS FOR REIMBURSEMENT OF EXPENSES INCURRED FOR ADOPTION PLACEMENTS MADE BY FOREIGN GOVERNMENTS.**

Section 1052(g)(3) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) A foreign government or an agency authorized by a foreign government to place children for adoption, in any case in which—

"(i) the adopted child is entitled to automatic citizenship under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431); or

"(ii) a certificate of citizenship has been issued for such child under section 322 of that Act (8 U.S.C. 1433).".

**SEC. 662. CLARIFICATION OF EDUCATION LOANS QUALIFYING FOR EDUCATION LOAN REPAYMENT PROGRAM FOR RESERVE COMPONENT HEALTH PROFESSIONS OFFICERS.**

Section 16302(a)(5) of title 10, United States Code, is amended by inserting "a basic professional qualifying degree (as determined under regulations prescribed by the Secretary of Defense) or graduate education in" after "regarding".

**SEC. 663. RECEIPT OF PAY BY RESERVISTS FROM CIVILIAN EMPLOYERS WHILE ON ACTIVE DUTY IN CONNECTION WITH A CONTINGENCY OPERATION.**

Section 209 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) This section does not prohibit a member of the reserve components of the armed forces on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 from receiving from any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty.".

**SEC. 664. RELIEF FOR MOBILIZED RESERVISTS FROM CERTAIN FEDERAL AGRICULTURAL LOAN OBLIGATIONS.**

The Consolidated Farm and Rural Development Act is amended by inserting after section 331F (7 U.S.C. 1981f) the following new section:

**"SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.**

"(a) DEFINITION OF MOBILIZED MILITARY RESERVIST.—In this section, the term 'mobilized military reservist' means an individual who—

"(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

"(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.

"(b) FORGIVENESS OF INTEREST PAYMENTS DUE WHILE BORROWER IS A MOBILIZED MILITARY RESERVIST.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is rescinded.

"(c) DEFERRAL OF PRINCIPAL PAYMENTS DUE WHILE OR AFTER BORROWER IS A MOBILIZED MILITARY RESERVIST.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

"(d) NONACCRUAL OF INTEREST.—Interest on a direct loan made to a borrower described in this section shall not accrue during the period the borrower is a mobilized military reservist.

"(e) BORROWER NOT CONSIDERED TO BE DELINQUENT OR RECEIVING DEBT FORGIVENESS.—Notwithstanding section 373 or any other provision of this title, a borrower who receives assistance under this section shall not, as a result of the assistance, be considered to be delinquent or receiving debt forgiveness for purposes of receiving a direct or guaranteed loan under this title.".

**SEC. 665. SURVEY AND ANALYSIS OF EFFECT OF EXTENDED AND FREQUENT MOBILIZATION OF RESERVISTS FOR ACTIVE DUTY SERVICE ON RESERVIST INCOME.**

(a) SURVEY OF MOBILIZED RESERVISTS TO DETERMINE DIFFERENTIAL BETWEEN PRIVATE SECTOR INCOME AND MILITARY COMPENSATION.—(1) The Secretary of Defense shall conduct a survey involving members of the reserve components who serve, or have served, on active duty in support of a contingency operation at any time during the period beginning on September 11, 2001, and ending on September 30, 2005, to determine the extent to which such members sustained a reduction in monthly income during their period of active duty service compared to their average monthly civilian income during the 12 months preceding their mobilization.

(2) To the extent practicable, at least 50 percent of the total number of members of the reserve components who have served on active duty in support of a contingency operation at any time during the period specified in paragraph (1) should be included in the survey. To participate in the survey, a member shall agree to make available to the Secretary such information as the Secretary may require to accurately calculate the average monthly civilian income of the member.

(b) CALCULATION OF INCOME DIFFERENTIAL.—In the case of each member participating in the survey under subsection (a) whose total monthly military compensation during the active duty service of the member was less, or appeared to be less, than the average monthly civilian income of the member, the Secretary of Defense,

in cooperation with the member, shall calculate the monthly active-duty income differential for the member.

(c) COLLECTION OF DEMOGRAPHIC DATA.—The Secretary of Defense shall collect demographic data regarding each member of a reserve component who participates in the survey under subsection (a), including, at a minimum, data on the following:

(1) Reserve component.

(2) Unit of assignment.

(3) Grade.

(4) Age.

(5) Years of service.

(6) Sex.

(7) Marital status.

(8) Number of dependents.

(9) General category of private-sector employment, as determined by the Secretary, but to include an employment category to cover members who are self-employed.

(10) Military occupational specialty, including specifying all surveyed members who are serving in a critical wartime specialty.

(11) Length of service on active duty during the most recent mobilization.

(12) Number of times mobilized since September 11, 2001.

(d) CONSIDERATION OF AVERAGE MONTHLY RESERVE SERVICE INCOME.—The Secretary of Defense shall collect data to calculate the average monthly reserve service income of members of the reserve components before their mobilization, and consider such data by grade, general category of military occupational specialty, and years of service. The Secretary shall also consider the effect that the receipt of average monthly reserve service income by reserve component members before mobilization should have on any obligation of the United States to eliminate or at least reduce the monthly active-duty income differential suffered by members serving on active duty in support of a contingency operation.

(e) EFFECT OF INCOME LOSS ON RETENTION.—The Secretary of Defense shall include in the survey under subsection (a) a question intended to solicit information from members of the reserve components participating in the survey regarding the likely effect that a reoccurring monthly active-duty income differential while serving on active duty would have on their decision to remain in Armed Forces.

(f) ANALYSIS OF SURVEY DATA.—(1) At a minimum, the Secretary of Defense shall determine, for each variable listed in paragraphs (2) through (12) of subsection (c), the number of members of the reserve components surveyed under subsection (a) who sustained a monthly active-duty income differential for any month during their active duty service and compare and contrast that number with the number of members who did not experience a monthly active-duty income differential.

(2) The Secretary shall also determine the average amount of the active-duty income differential by reserve component for each variable within the characteristics listed in paragraphs (2) through (12) of subsection (c).

(g) SUBMISSION OF SURVEY RESULTS AND RECOMMENDATIONS.—(1) Not later than January 31, 2006, the Secretary of Defense shall submit to Congress and the Comptroller General a report containing the results of the surveys conducted under subsection

(a), including the results of the analysis of survey data required by subsection (f). The Secretary shall include such recommendations as the Secretary considers appropriate regarding alternatives for restoring income lost by members of the reserve components who sustained a monthly active-duty income differential during their active duty service.

(2) Not later than 90 days after receiving the report of the Secretary of Defense submitted under paragraph (1), the Comptroller General shall submit to Congress an assessment of the findings and recommendations of the Secretary contained in the report.

(h) DEFINITIONS USED IN CONDUCTING SURVEY AND CALCULATIONS.—In this section:

(1) The term "monthly active-duty income differential", with respect to a member of a reserve component who participates in the survey under subsection (a), means the difference between—

(A) the average monthly civilian income of the member; and

(B) the total monthly military compensation of the member during the active duty service of the member.

(2) The term "total monthly military compensation", with respect to a member of a reserve component who participates in the survey, means the amount, computed on a monthly basis, of the sum of—

(A) the amount of the regular military compensation (RMC), as defined in section 101(25) of title 37, United States Code, of the member during the period specified in subsection (a)(1); and

(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis during the period specified in subsection (a)(1).

(3) The term "average monthly civilian income", with respect to a member of a reserve component who participates in the survey, means the amount, determined by the Secretary of Defense, of the earned income of the member for the 12 months preceding the first mobilization of the member for active duty service in support of a contingency operation during the period specified in subsection (a)(1), divided by 12.

(4) The term "average monthly reserve service income", with respect to a member of a reserve component who participates in the survey, means the amount, determined by the Secretary of Defense, of the regular military compensation, compensation under section 206 of title 37, United States Code, and any special pays and allowances referred to in paragraph (3)(B) received by the member during the 12 months preceding the first mobilization of the member for active duty service in support of a contingency operation during the period specified in subsection (a)(1), divided by 12.

**SEC. 666. STUDY OF DISABILITY BENEFITS FOR VETERANS OF SERVICE IN THE ARMED FORCES WITH SERVICE-CONNECTED DISABILITIES.**

(a) REQUIREMENT FOR STUDY.—(1) The Secretary of Defense shall conduct a study of the totality of all current and projected

disability benefits that are available to disabled members and former members of the Armed Forces for service-connected disabilities and, on the basis of the results of such study, determine the adequacy of those benefits.

(2) In carrying out the study, the Secretary shall—

(A) compare the disability benefits for members of the Armed Forces with commercial and other private-sector disability benefits plans that are provided for other persons in the United States who are disabled by causes other than service in the Armed Forces; and

(B) identify and assess the changes to Department of Defense personnel policies needed to enhance the financial and nonfinancial benefits that are provided to members and former members of the Armed Forces for service-connected disabilities.

(b) COORDINATION.—In carrying out the study under subsection (a) and preparing the report under subsection (c), the Secretary of Defense shall—

(1) consult with the Secretary of Veterans Affairs and take into consideration the veterans disability benefits programs that are administered by the Secretary of Veterans Affairs; and

(2) consult with, and obtain the assistance of, the Veterans' Disability Benefits Commission established under title XV of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1676).

(c) REPORT.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense shall submit a report on the results of the study under this section to the committees of Congress specified in subsection (e). The report shall include the following:

(1) The Secretary's assessments, analyses, and conclusions resulting from the study.

(2) Recommended legislation to address the deficiencies in the system of Federal Government disability benefits for disabled members and former members of the Armed Forces that are identified in the course of the study.

(3) An estimate of the costs of improvements in the system of disability benefits that are provided for in the recommended legislation.

(d) GAO STUDY.—(1) The Comptroller General shall conduct a study to identify the disability benefits that are payable under Federal, State, and local laws for employees of the Federal Government, State governments, and local governments. In carrying out the study, the Comptroller General shall, to the extent feasible, pay particular attention to the disability benefits that are provided for disabilities incurred in the performance of jobs in which employees perform tasks with risks that are analogous to the risks associated with the performance of military tasks by members of the Armed Forces.

(2) Not later than November 1, 2005, the Comptroller General shall submit a report on the results of the study under paragraph (1) to the committees of Congress specified in subsection (e).

(e) RECIPIENTS OF REPORT.—The committees of Congress to which the reports under subsections (d) and (e) are to be submitted are as follows:

(1) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(2) The Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

# TITLE VII—HEALTH CARE PROVISIONS

### Subtitle A—Enhanced Benefits for Reserves

Sec. 701. TRICARE coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty.
Sec. 702. Comptroller General report on the cost and feasibility of providing private health insurance stipends for members of the Ready Reserves.
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### Subtitle D—Medical Readiness Tracking and Health Surveillance

Sec. 731. Medical readiness plan and Joint Medical Readiness Oversight Committee.
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# Subtitle A—Enhanced Benefits for Reserves

**SEC. 701. TRICARE COVERAGE FOR MEMBERS OF RESERVE COMPONENTS WHO COMMIT TO CONTINUED SERVICE IN THE SELECTED RESERVE AFTER RELEASE FROM ACTIVE DUTY.**

(a) ELIGIBILITY.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076c the following new section:

**"§ 1076d. TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty**

"(a) ELIGIBILITY.—A member of the Selected Reserve of the Ready Reserve of a reserve component of the armed forces is eligible for health benefits under TRICARE Standard as provided in this section after the member completes service on active duty to which the member was called or ordered for a period of more than 30 days on or after September 11, 2001, under a provision of law referred to in section 101(a)(13)(B), if the member—

"(1) served continuously on active duty for 90 or more days pursuant to such call or order; and

"(2) on or before the date of the release from such active-duty service, entered into an agreement with the Secretary concerned to serve continuously in the Selected Reserve for a period of one or more whole years following such date.

"(b) PERIOD OF COVERAGE.—(1) TRICARE Standard coverage of a member under this section, on the basis of active-duty service performed as described in subsection (a), begins upon the expiration of the member's entitlement to care and benefits under section 1145(a) of this title that is based on the same active-duty service.

"(2) Unless earlier terminated under paragraph (3), the period for TRICARE Standard coverage of a member under this section shall be equal to the lesser of—

"(A) one year, in the case of a member who is otherwise eligible but does not serve continuously on active duty for 90 days as described in subsection (a) because of an injury, illness, or disease incurred or aggravated while deployed;

"(B) one year for each consecutive period of 90 days of continuous active-duty service described in subsection (a); or

"(C) the number of whole years for which the member agrees under paragraph (2) of such subsection to continue to serve in the Selected Reserve after the coverage begins.

"(3) Eligibility for TRICARE Standard coverage of a member under this section shall terminate upon the termination of the member's service in the Selected Reserve.

"(c) FAMILY MEMBERS.—While a member of a reserve component is covered by TRICARE Standard under the section, the members of the immediate family of such member are eligible for TRICARE Standard coverage as dependents of the member.

"(d) PREMIUMS.—(1) A member of a reserve component covered by TRICARE Standard under this section shall pay a premium for that coverage.

"(2) The Secretary of Defense shall prescribe for the purposes of this section one premium for TRICARE Standard coverage of members without dependents and one premium for TRICARE Standard coverage of members with dependents referred to in subsection (f)(1). The premium prescribed for a coverage shall apply uniformly to all covered members of the reserve components.

"(3) The monthly amount of the premium in effect for a month for TRICARE Standard coverage under this section shall be the amount equal to 28 percent of the total monthly amount that the Secretary determines on an appropriate actuarial basis as being reasonable for that coverage.

"(4) The premiums payable by a member of a reserve component under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums.

"(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

"(e) RELATIONSHIP OF SERVICE AGREEMENT TO OTHER SERVICE COMMITMENTS.—The service agreement required of a member of a reserve component under subsection (a)(2) is separate from any other form of commitment of the member to a period of obligated service in that reserve component and may cover any part or all of the same period that is covered by another commitment of the member to a period of obligated service in that reserve component.

"(f) DEFINITIONS.—In this section:

"(1) The term 'immediate family', with respect to a member of a reserve component, means all of the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

"(2) The term 'TRICARE Standard' means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program.

"(g) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076c the following new item:

"1076d. TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty.".

(b) IMPLEMENTATION.—(1) The Secretary of Defense shall implement section 1076d of title 10, United States Code, not later than 180 days after the date of the enactment of this Act.

(2)(A) A member of a reserve component of the Armed Forces who performed active-duty service described in subsection (a) of section 1076d of title 10, United States Code, for a period beginning on or after September 11, 2001, and was released from that active-duty service before the date of the enactment of this Act, or is released from that active-duty service on or within 180 days after

the date of the enactment of this Act, may, for the purpose of paragraph (2) of such subsection, enter into an agreement described in such paragraph not later than one year after the date of the enactment of this Act. TRICARE Standard coverage (under such section 1076d) of a member who enters into such an agreement under this paragraph shall begin on the later of—

(i) the date applicable to the member under subsection (b) of such section; or

(ii) the date of the agreement.

(B) The Secretary of Defense shall take such action as is necessary to ensure, to the maximum extent practicable, that members of the reserve components eligible to enter into an agreement as provided in subparagraph (A) actually receive information on the opportunity and procedures for entering into such an agreement together with a clear explanation of the benefits that the members are eligible to receive as a result of entering into such an agreement under section 1076d of title 10, United States Code.

**SEC. 702. COMPTROLLER GENERAL REPORT ON THE COST AND FEASIBILITY OF PROVIDING PRIVATE HEALTH INSURANCE STIPENDS FOR MEMBERS OF THE READY RESERVES.**

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study on the cost and feasibility of providing a stipend to members of the Ready Reserves to offset the cost of continuing private health insurance coverage for the members' dependents when the members are on active duty for periods of more than 30 days, with the dependents being ineligible to enroll in the TRICARE program and payment of the stipend ending when the members are no longer on active duty.

(b) MATTERS COVERED.—The study shall include the following matters:

(1) Recommendation for a benefit amount and cost to the Department of Defense.

(2) Potential effects on medical readiness, recruitment, and retention.

(3) The extent to which the Reserves and members of their families might participate under the stipend program.

(4) Administrative and management considerations for the Department of Defense.

(5) Impact of pre-existing conditions on continuity of care for dependents.

(6) Possible implications for employers.

(c) REPORT.—Not later than March 31, 2005, 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 containing the results of the study under this section.

**SEC. 703. PERMANENT EARLIER ELIGIBILITY DATE FOR TRICARE BENEFITS FOR MEMBERS OF RESERVE COMPONENTS AND THEIR DEPENDENTS.**

Section 1074(d) of title 10, United States Code, is amended by striking paragraph (3).

**SEC. 704. WAIVER OF CERTAIN DEDUCTIBLES UNDER TRICARE PROGRAM FOR MEMBERS ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.**

Section 1095d(a) of title 10, United States Code, is amended by striking "less than one year" both places it appears and inserting "more than 30 days".

**SEC. 705. AUTHORITY FOR PAYMENT BY UNITED STATES OF ADDITIONAL AMOUNTS BILLED BY HEALTH CARE PROVIDERS TO ACTIVATED RESERVES.**

Section 1079(h) of title 10, United States Code, is amended by adding at the end of paragraph (4) the following new subparagraph:

"(C)(i) In the case of a dependent described in clause (ii), the regulations shall provide that, in addition to amounts otherwise payable by the United States, the Secretary may pay the amount referred to in subparagraph (B)(i).

"(ii) This subparagraph applies to a dependent referred to in subsection (a) of a member of a reserve component serving on active duty pursuant to a call or order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title.".

**SEC. 706. PERMANENT EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS AND ADDITION OF REQUIREMENT FOR PRESEPARATION PHYSICAL EXAMINATION.**

(a) PERMANENT REQUIREMENT.—(1) Paragraph (3) of section 1145(a) of title 10, United States Code, is amended to read as follows:

"(3) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.".

(2) The following provisions of law are repealed:

(A) Section 704 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1527; 10 U.S.C. 1145 note).

(B) Section 1117 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1218; 10 U.S.C. 1145 note).

(3) Paragraph (1) of such section 1145(a) is amended by striking "applicable".

(b) REQUIREMENT FOR PHYSICAL EXAMINATION.—Such section 1145(a), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(4)(A) The Secretary concerned shall require a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) to undergo a physical examination immediately before that separation. The physical examination shall be conducted in accordance with regulations prescribed by the Secretary of Defense.

"(B) Notwithstanding subparagraph (A), if a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) has otherwise undergone a physical examination within 12 months before the scheduled date of separation from active duty, the requirement for a physical examination

under subparagraph (A) may be waived in accordance with regulations prescribed under this paragraph. Such regulations shall require that such a waiver may be granted only with the consent of the member and with the concurrence of the member's unit commander.".

## Subtitle B—Other Benefits Improvements

**SEC. 711. OPPORTUNITY FOR YOUNG CHILD DEPENDENT OF DECEASED MEMBER TO BECOME ELIGIBLE FOR ENROLLMENT IN A TRICARE DENTAL PLAN.**

Section 1076a(k)(2) of title 10, United States Code, is amended—

(1) by striking "under subsection (a) or" and inserting "under subsection (a),"; and

(2) by inserting after "under subsection (f)," the following: "or is not enrolled because the dependent is a child under the minimum age for enrollment,".

**SEC. 712. COMPTROLLER GENERAL REPORT ON PROVISION OF HEALTH, EDUCATION, AND SUPPORT SERVICES FOR EXCEPTIONAL FAMILY MEMBER PROGRAM ENROLLEES.**

(a) EVALUATION REQUIREMENT.—The Comptroller General shall evaluate the effect of the Exceptional Family Member Program (in this section referred to as "EFMP") on health, education, and support services in selected civilian communities near military installations with a high concentration of EFMP enrollees.

(b) MATTERS COVERED.—The evaluation under subsection (a) shall include a discussion of the following:

(1) Communities that have high concentrations of EFMP enrollees that use State and local health, education, and support services.

(2) Needs of EFMP enrollees, if any, that are not met by State and local health, education, and support services.

(3) The burdens, financial and otherwise, placed on State and local health, education, and support services by EFMP enrollees and their families.

(4) The ability of the TRICARE program to meet the needs of EFMP enrollees and their families.

(5) Reasons for any limitations of the TRICARE program, the EFMP, and State and local health, education, and support services in providing assistance to EFMP enrollees and their families.

(6) Recommendations for more effectively meeting the needs of EFMP enrollees and their families.

(c) COMMUNITIES COVERED.—The evaluation under subsection (a) shall examine no fewer than four civilian communities, as determined by the Comptroller General, that have high concentrations of EFMP enrollees and that are near several military installations, including at least two military installations with tenants from more than one of the Armed Forces.

(d) DEFINITIONS.—In this section:

(1) The term "health, education, and support services" means services provided to children and other dependents with special needs, including specialized day care, mental health

day treatment services, respite services, counseling, early childhood intervention, special education, and other such services provided for children and other dependents with special needs.

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

(e) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the evaluation required under subsection (a), including findings and recommendations.

**SEC. 713. CONTINUATION OF SUB-ACUTE CARE FOR TRANSITION PERIOD.**

Section 1074j(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Secretary of Defense may take such actions as are necessary to ensure that there is an effective transition in the furnishing of part-time or intermittent home health care benefits for covered beneficiaries who were receiving such benefits before the establishment of the program under this section. The actions taken under this paragraph may include the continuation of such benefits on an extended basis for such time as the Secretary determines appropriate.".

**SEC. 714. IMPROVEMENTS TO PHARMACY BENEFITS PROGRAM.**

(a) REQUIREMENT RELATING TO PRESCRIPTION DRUG BENEFITS FOR MEDICARE-ELIGIBLE ENROLLEES.—Section 1074g(a)(6) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(6)"; and

(2) by adding at the end the following:

"(B) For a medicare-eligible beneficiary, the cost-sharing requirements may not be in excess of the cost-sharing requirements applicable to all other beneficiaries covered by section 1086 of this title. For purposes of the preceding sentence, a medicare-eligible beneficiary is a beneficiary eligible for health benefits under section 1086 of this title pursuant to subsection (d)(2) of such section.".

(b) IMPROVEMENT TO UNIFORM FORMULARY PROCESS.—Section 1074g(a)(2)(E)(i) of such title is amended by inserting before the semicolon the following: "and additional determinations by the Pharmacy and Therapeutics Committee of the relative clinical and cost effectiveness of the agents".

**SEC. 715. PROFESSIONAL ACCREDITATION OF MILITARY DENTISTS.**

Section 1077(c) of title 10, United States Code, is amended—

(1) by striking "A" and inserting "(1) Except as specified in paragraph (2), a"; and

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

"(2)(A) Dependents who are 12 years of age or younger and are covered by a dental plan established under section 1076a of this title may be treated by postgraduate dental residents in a dental treatment facility of the uniformed services under a graduate dental education program accredited by the American Dental Association if—

"(i) treatment of pediatric dental patients is necessary in order to satisfy an accreditation standard of the American Dental Association that is applicable to such program, or training in pediatric dental care is necessary for the residents

to be professionally qualified to provide dental care for dependent children accompanying members of the uniformed services outside the United States; and

"(ii) the number of pediatric patients at such facility is insufficient to support satisfaction of the accreditation or professional requirements in pediatric dental care that apply to such program or students.

"(B) The total number of dependents treated in all facilities of the uniformed services under subparagraph (A) in a fiscal year may not exceed 2,000.".

**SEC. 716. TEMPORARY AUTHORITY FOR WAIVER OF COLLECTION OF PAYMENTS DUE FOR CHAMPUS BENEFITS RECEIVED BY DISABLED PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.**

(a) AUTHORITY TO WAIVE DEBT.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, may waive (in whole or in part) the collection of payments otherwise due from a person described in subsection (b) for health benefits received by such person under section 1086 of title 10, United States Code, after the termination of that person's eligibility for such benefits.

(2) If the Secretary of Defense waives collection of payments from a person under paragraph (1), the Secretary may also authorize a continuation of benefits for such person under such section 1086 for a period ending not later than the end of the period specified in subsection (c) of this section.

(b) ELIGIBLE PERSONS.—A person is eligible for relief under subsection (a)(1) if—

(1) the person is described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) except for such paragraph, the person would have been eligible for the health benefits under such section; and

(3) at the time of the receipt of such benefits—

(A) the person satisfied the criteria specified in paragraph (2)(B) of such subsection (d); and

(B) the person was unaware of the loss of eligibility to receive the health benefits.

(c) PERIOD OF APPLICABILITY.—The authority provided under this section to waive collection of payments and to continue benefits shall apply, under terms and conditions prescribed by the Secretary of Defense, to health benefits provided under section 1086 of title 10, United States Code, during the period beginning on July 1, 1999, and ending at the end of December 31, 2004.

(d) ADMINISTERING SECRETARIES.—In this subsection, the term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

**SEC. 717. SERVICES OF MARRIAGE AND FAMILY THERAPISTS.**

(a) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "marriage and family therapists certified as such by a certification recognized by the Secretary of Defense," after "psychologists,".

(b) APPLICABILITY OF LICENSURE REQUIREMENT FOR HEALTH-CARE PROFESSIONALS.—Section 1094(e)(2) of title 10, United States

Code, is amended by inserting "marriage and family therapist certified as such by a certification recognized by the Secretary of Defense," after "psychologist,".

**SEC. 718. CHIROPRACTIC HEALTH CARE BENEFITS ADVISORY COMMITTEE.**

(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall establish an oversight advisory committee to provide the Secretary with advice and recommendations regarding the continued development and implementation of an effective program of chiropractic health care benefits for members of the uniformed services on active duty.

(b) MEMBERSHIP.—The advisory committee shall be composed of members selected from among persons who, by reason of education, training, and experience, are experts in chiropractic health care, as follows:

(1) Members appointed by the Secretary of Defense in such number as the Secretary determines appropriate for carrying out the duties of the advisory committee effectively, including not fewer than three practicing representatives of the chiropractic health care profession.

(2) A representative of each of the uniformed services, as designated by the administering Secretary concerned.

(c) CHAIRMAN.—The Secretary of Defense shall designate one member of the advisory committee to serve as the Chairman of the advisory committee.

(d) MEETINGS.—The advisory committee shall meet at the call of the Chairman, but not fewer than three times each fiscal year, beginning in fiscal year 2005.

(e) DUTIES.—The advisory committee shall have the following duties:

(1) Review and evaluate the program of chiropractic health care benefits provided to members of the uniformed services on active duty under chapter 55 of title 10, United States Code.

(2) Provide the Secretary of Defense with advice and recommendations as described in subsection (a).

(3) Upon the Secretary's determination that the program of chiropractic health care benefits referred to in paragraph (1) has been fully implemented, prepare and submit to the Secretary a report containing the advisory committee's evaluation of the implementation of such program.

(f) REPORT.—The Secretary of Defense, following receipt of the report by the advisory committee under subsection (e)(3), shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report containing the following:

(1) A copy of the advisory committee report, together with the Secretary's comments on the report.

(2) An explanation of the criteria and rationale that the Secretary used to determine that the program of chiropractic health care benefits was fully implemented.

(3) The Secretary's views with regard to the future implementation of the program of chiropractic health care benefits.

(g) APPLICABILITY OF TEMPORARY ORGANIZATIONS LAW.—(1) Section 3161 of title 5, United States Code, shall apply to the advisory committee under this section.

(2) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the oversight advisory committee under this section.

(h) TERMINATION.—The advisory committee shall terminate 90 days after the date on which the Secretary submits the report under subsection (f).

## Subtitle C—Planning, Programming, and Management

**SEC. 721. PILOT PROGRAM FOR HEALTH CARE DELIVERY.**

(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program at two or more military installations for purposes of testing initiatives that build cooperative health care arrangements and agreements between military installations and local and regional non-military health care systems.

(b) REQUIREMENTS OF PILOT PROGRAM.—In conducting the pilot program, the Secretary of Defense shall—

(1) identify and analyze health care delivery options involving the private sector and health care services in military facilities located on the installation;

(2) determine the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector;

(3) study the potential, viability, cost efficiency, and health care effectiveness of Department of Defense health care providers delivering health care in civilian community hospitals; and

(4) determine the opportunities for and barriers to coordinating and leveraging the use of existing health care resources, including Federal, State, local, and contractor assets.

(c) CONSULTATION REQUIREMENTS.—The Secretary of Defense shall develop the pilot program in consultation with the Secretaries of the military departments, representatives from the military installation selected for the pilot program, Federal, State, and local entities, and the TRICARE managed care support contractor with responsibility for that installation.

(d) SELECTION OF MILITARY INSTALLATION.—The pilot program may be implemented at two or more military installations selected by the Secretary of Defense. At least one of the selected military installations shall meet the following criteria:

(1) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

(2) The number of members of the Armed Forces on active duty permanently assigned to the military installation is expected to increase over the next five years.

(3) One or more cooperative arrangements exist at the military installation with civilian health care entities in the form of specialty care services in the military medical treatment facility on the installation.

(4) There is a military treatment facility on the installation that does not have inpatient or trauma center care capabilities.

(5) There is a civilian community hospital near the military installation with—

(A) limited capability to expand inpatient care beds, intensive care, and specialty services; and

(B) limited or no capability to provide trauma care.

(e) DURATION OF PILOT PROGRAM.—Implementation of the pilot program developed under this section shall begin not later than May 1, 2005, and shall be conducted during fiscal years 2005, 2006, and 2007.

(f) REPORTS.—With respect to any pilot program conducted under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and of the House of Representatives—

(1) an interim report on the program, not later than 60 days after commencement of the program; and

(2) a final report describing the results of the program with recommendations for a model health care delivery system for other military installations, not later than July 1, 2007.

**SEC. 722. STUDY OF PROVISION OF TRAVEL REIMBURSEMENT TO HOSPITALS FOR CERTAIN MILITARY DISABILITY RETIREES.**

(a) STUDY.—The Secretary of Defense shall conduct a study of the feasibility, and of the desirability, of providing that a member of the uniformed services retired under chapter 61 of title 10, United States Code, shall be provided reimbursement for the travel expenses of such member for travel, during the two-year period beginning on the date of the retirement of the member, to a military treatment facility for medical care. The Secretary shall include in that study consideration of whether reimbursement under such a plan should, as nearly as practicable, be under the same terms and conditions, and at the same rate, as apply to beneficiary travel reimbursement provided by the Secretary of Veterans Affairs under section 111 of title 38, United States Code.

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report providing the results of the study under subsection (a). Such report shall be submitted not later than March 1, 2005.

**SEC. 723. STUDY OF MENTAL HEALTH SERVICES.**

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study of mental health services available to members of the Armed Forces.

(b) PERSONS COVERED.—The study shall evaluate the availability and effectiveness of existing mental health treatment and screening resources—

(1) for members of the Armed Forces during a deployment to a combat theater;

(2) for members of the Armed Forces returning from a deployment to a combat theater, both—

(A) in the short-term, post-deployment period; and

(B) in the long-term, following the post-deployment period;

(3) for the families of members of the Armed Forces who have been deployed to a combat theater during the time of the deployment;

(4) for the families of members of the Armed Forces who have been deployed to a combat theater after the member has returned from the deployment; and

(5) for members of the Armed Forces and their families described in this subsection who are members of reserve components.

(c) ASSESSMENT OF OBSTACLES.—The study shall provide an assessment of existing obstacles that prevent members of the Armed Forces and military families in need of mental health services from obtaining these services, including—

(1) the extent to which existing confidentiality regulations, or lack thereof, inhibit members of the Armed Forces from seeking mental health treatment;

(2) the implications that a decision to seek mental health services can have on a military career;

(3) the extent to which a social stigma exists within the Armed Forces that prevents members of the Armed Forces and military families from seeking mental health treatment within the Department of Defense and the individual Armed Forces;

(4) the extent to which logistical obstacles, particularly with respect to members of the Armed Forces and families residing in rural areas, deter members in need of mental health services from obtaining them; and

(5) the extent to which members of the Armed Forces and their families are prevented or hampered from obtaining mental health treatment due to the cost of such services.

(d) IDENTIFICATION OF PROBLEMS UNIQUE TO RESERVES.—The study shall identify potential problems in obtaining mental health treatment that are unique to members of Reserve components.

(e) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under this section not later than March 31, 2005. The report shall contain the results of the study and make specific recommendations—

(1) for improving the effectiveness and accessibility of mental health services provided by Department of Defense to the persons listed in subsection (b), including recommendations to ensure appropriate referrals and a seamless transition to the care of the Department of Veterans Affairs following separation from the Armed Forces; and

(2) for removing or mitigating any obstacles identified under subsection (c) and problems identified under subsection (d).

**SEC. 724. POLICY FOR TIMELY NOTIFICATION OF NEXT OF KIN OF MEMBERS SERIOUSLY ILL OR INJURED IN COMBAT ZONES.**

(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe the policy of the Department of Defense for providing, in the case of the serious illness or injury of a member of the Armed Forces in a combat zone, timely notification to the next of kin of the member regarding the illness or injury, including information on the condition of the member and the location at which the member is receiving treatment. In prescribing the policy, the Secretary shall ensure respect for the expressed desires of individual members of the Armed Forces regarding the notification of next of kin and shall include standards of timeliness for both the initial notification of next of kin under the policy and subsequent updates regarding the condition and location of the member.

(b) SUBMISSION OF POLICY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a copy of the policy.

**SEC. 725. REVISED FUNDING METHODOLOGY FOR MILITARY RETIREE HEALTH CARE BENEFITS.**

(a) REVISION.—Section 1116 of title 10, United States Code, is amended to read as follows:

**"§ 1116. Payments into the Fund**

"(a) At the beginning of each fiscal year after September 30, 2005, the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury—

"(1) the amount certified to the Secretary by the Secretary of Defense under subsection (c), which shall be the contribution to the Fund for that fiscal year required by section 1115; and

"(2) the amount determined by each administering Secretary under section 1111(c) as the contribution to the Fund on behalf of the members of the uniformed services under the jurisdiction of that Secretary.

"(b) At the beginning of each fiscal year, the Secretary of Defense shall determine the sum of the following:

"(1) The amount of the payment for that year under the amortization schedule determined by the Board of Actuaries under section 1115(a) of this title for the amortization of the original unfunded liability of the Fund.

"(2) The amount (including any negative amount) of the Department of Defense contribution for that year as determined by the Secretary of Defense under section 1115(b) of this title.

"(3) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(2) of this title for the amortization of any cumulative unfunded liability (or any gain) to the Fund resulting from changes in benefits.

'(4) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(3) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial assumption changes.

"(5) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(4) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial experience.

"(c) The Secretary of Defense shall promptly certify the amount determined under subsection (b) each year to the Secretary of the Treasury.

"(d) At the same time as the Secretary of Defense makes the certification under subsection (c), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the information provided to the Secretary of the Treasury under that subsection.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that any unsubscribed discretionary budget authority that accrues within the national defense budget function as a result of the

amendments made by this section shall be applied to cover the unbudgeted costs of—

(1) increases in Army end strengths and modularization;

(2) increases in Marine Corps end strengths and necessary equipment; and

(3) Navy shipbuilding requirements.

(c) CONFORMING AMENDMENTS.—(1) Section 1111(c) of title 10, United States Code, is amended in the last sentence by striking "1116" and all that follows through the end of the sentence and inserting "1115(b) of this title, and such contributions shall be paid into the Fund as provided in section 1116(a).".

(2) Section 1115(a) of such title is amended by striking "1116(c)" and inserting "1116".

(3) Section 1115(b) of such title is amended—

(A) by striking "(1) The Secretary of Defense" and all that follows through "of this title." and inserting "The Secretary of Defense shall determine, before the beginning of each fiscal year after September 30, 2005, the total amount of the Department of Defense contribution to be made to the Fund for that fiscal year for purposes of section 1116(b)(2).";

(B) by striking paragraph (2);

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(D) in each of paragraphs (1) and (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(E) in paragraph (2)(B), as so redesignated, by striking "subparagraph (A)(ii)" and inserting "paragraph (1)(B)".

(4) Section 1115(c)(1) of such title is amended by striking "and section 1116(a) of this title".

(5) Section 1115(c)(5) of such title is amended by striking "1116(c)" and inserting "1116".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

**SEC. 726. GROUNDS FOR PRESIDENTIAL WAIVER OF REQUIREMENT FOR INFORMED CONSENT OR OPTION TO REFUSE REGARDING ADMINISTRATION OF DRUGS NOT APPROVED FOR GENERAL USE.**

(a) INVESTIGATIONAL NEW DRUGS.—Section 1107(f) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "obtaining consent—" and all that follows through "(C) is" and inserting "obtaining consent is"; and

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) The waiver authority provided in paragraph (1) shall not be construed to apply to any case other than a case in which prior consent for administration of a particular drug is required by reason of a determination by the Secretary of Health and Human Services that such drug is subject to the investigational new drug requirements of section 505(i) of the Federal Food, Drug, and Cosmetic Act.".

(b) EMERGENCY USE DRUGS.—Section 1107a(a) of such title is amended—

(1) by inserting "(A)" after "PRESIDENT.—(1)";

(2) by striking "is not feasible," and all that follows through "members affected, or"; and

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

"(B) The waiver authority provided in subparagraph (A) shall not be construed to apply to any case other than a case in which an individual is required to be informed of an option to accept or refuse administration of a particular product by reason of a determination by the Secretary of Health and Human Services that emergency use of such product is authorized under section 564 of the Federal Food, Drug, and Cosmetic Act.".

**SEC. 727. TRICARE PROGRAM REGIONAL DIRECTORS.**

(a) RECOMMENDATIONS FOR SELECTION PROCESS FOR TRICARE PROGRAM REGIONAL DIRECTORS.—(1) The Secretary of Defense shall develop recommendations for a process for the selection of regional directors for TRICARE program administrative regions from among nominees and applicants for the position in accordance with this section.

(2) The recommendations developed under paragraph (1) shall provide for a process for—

(A) the Secretary of each military department to nominate, for each regional director position, one commissioned officer in a grade above colonel, or, in the case of the Navy, captain, or member of the Senior Executive Service under the jurisdiction of that Secretary; and

(B) the Secretary of Defense to accept applications for assignment or appointment to each such position from any other qualified person.

(3) The recommendations developed under paragraph (1) shall also include recommendations with respect to—

(A) the qualifications for regional directors;

(B) the period of assignment of a commissioned officer as a regional director;

(C) procedures for ensuring that fair consideration is given to each nominee and each applicant; and

(D) such other requirements as considered appropriate by the Secretary.

(b) REPORT.—Not later than March 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the recommendations developed by the Secretary under subsection (a).

## Subtitle D—Medical Readiness Tracking and Health Surveillance

**SEC. 731. MEDICAL READINESS PLAN AND JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.**

(a) REQUIREMENT FOR PLAN.—The Secretary of Defense shall develop a comprehensive plan to improve medical readiness, and Department of Defense tracking of the health status, of members of the Armed Forces throughout their service in the Armed Forces, and to strengthen medical readiness and tracking before, during, and after deployment of members of the Armed Forces overseas. The matters covered by the comprehensive plan shall include all elements that are described in this title and the amendments made by this title and shall comply with requirements in law.

(b) JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Medical Readiness Oversight Committee.

(2) COMPOSITION.—The members of the Committee are as follows:

(A) The Under Secretary of Defense for Personnel and Readiness, who shall chair the Committee.

(B) The Vice Chief of Staff of the Army, the Vice Chief of Naval Operations, the Vice Chief of Staff of the Air Force, and the Assistant Commandant of the Marine Corp.

(C) The Assistant Secretary of Defense for Health Affairs.

(D) The Assistant Secretary of Defense for Reserve Affairs.

(E) The Surgeon General of each of the Army, the Navy, and the Air Force.

(F) The Assistant Secretary of the Army for Manpower and Reserve Affairs.

(G) The Assistant Secretary of the Navy for Manpower and Reserve Affairs.

(H) The Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment.

(I) The Chief of the National Guard Bureau.

(J) The Chief of Army Reserve.

(K) The Chief of Naval Reserve.

(L) The Chief of Air Force Reserve.

(M) The Commander, Marine Corps Reserve.

(N) The Director of the Defense Manpower Data Center.

(O) A representative of the Department of Veterans Affairs designated by the Secretary of Veterans Affairs.

(3) DUTIES.—The duties of the Committee are as follows:

(A) To advise the Secretary of Defense on the medical readiness and health status of the members of the active and reserve components of the Armed Forces.

(B) To advise the Secretary of Defense on the compliance of the Armed Forces with the medical readiness tracking and health surveillance policies of the Department of Defense.

(C) To oversee the development and implementation of the comprehensive plan required by subsection (a) and the actions required by this title and the amendments made by this title, including with respect to matters relating to—

(i) the health status of the members of the reserve components of the Armed Forces;

(ii) accountability for medical readiness;

(iii) medical tracking and health surveillance;

(iv) declassification of information on environmental hazards;

(v) postdeployment health care for members of the Armed Forces; and

(vi) compliance with Department of Defense and other applicable policies on blood serum repositories.

(D) To ensure unity and integration of efforts across functional and organizational lines within the Department

of Defense with regard to medical readiness tracking and health surveillance of members of the Armed Forces.

(E) To establish and monitor compliance with the medical readiness standards that are applicable to members and those that are applicable to units.

(F) To improve continuity of care in coordination with the Secretary of Veterans Affairs, for members of the Armed Forces separating from active service with service-connected medical conditions.

(4) FIRST MEETING.—The first meeting of the Committee shall be held not later than 120 days after the date of the enactment of this Act.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—In addition to the duties described in subsection (b)(3), the Committee shall prepare and submit to the Secretary of Defense and to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on—

(A) the health status and medical readiness of the members of the Armed Forces, including the members of reserve components, based on the comprehensive plan required under subsection (a) and the actions required by this title and the amendments made by this title; and

(B) compliance with Department of Defense policies on medical readiness tracking and health surveillance.

(2) OPPORTUNITY FOR COMMENT.—Each year, before the Committee submits to Congress the report required under paragraph (1), the Secretary of Defense shall provide an opportunity for representatives of veterans and military health advocacy organizations, and others the Secretary of Defense considers appropriate, to comment on the report. The report submitted to Congress shall include a summary of the comments received and the Secretary's response to them.

**SEC. 732. MEDICAL READINESS OF RESERVES.**

(a) COMPTROLLER GENERAL STUDY OF HEALTH OF RESERVES ORDERED TO ACTIVE DUTY FOR OPERATIONS ENDURING FREEDOM AND IRAQI FREEDOM.—

(1) REQUIREMENT FOR STUDY.—The Comptroller General shall carry out a study of the health of the members of the reserve components of the Armed Forces who have been called or ordered to active duty for a period of more than 30 days in support of Operation Enduring Freedom and Operation Iraqi Freedom. The Comptroller General shall commence the study not later than 180 days after the date of the enactment of this Act.

(2) PURPOSES.—The purposes of the study under this subsection are as follows:

(A) To review the health status and medical fitness of the activated Reserves when they were called or ordered to active duty.

(B) To review the effects, if any, on logistics planning and the deployment schedules for the operations referred to in paragraph (1) that resulted from deficiencies in the health or medical fitness of activated Reserves.

(C) To review compliance of military personnel with Department of Defense policies on medical and physical

fitness examinations and assessments that are applicable to the reserve components of the Armed Forces.

(3) REPORT.—The Comptroller General shall, not later than one year after the date of the enactment of this Act, submit a report on the results of the study under this subsection to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

(A) With respect to the matters reviewed under subparagraph (A) of paragraph (2)—

(i) the percentage of activated Reserves who were determined to be medically unfit for deployment, together with an analysis of the reasons why the member was unfit, including medical illnesses or conditions most commonly found among the activated Reserves that were grounds for determinations of medical unfitness for deployment; and

(ii) the percentage of the activated Reserves who, before being deployed, needed medical care for health conditions identified when called or ordered to active duty, together with an analysis of the types of care that were provided for such conditions and the reasons why such care was necessary.

(B) With respect to the matters reviewed under subparagraph (B) of paragraph (2)—

(i) the delays and other disruptions in deployment schedules that resulted from deficiencies in the health status or medical fitness of activated Reserves; and

(ii) an analysis of the extent to which it was necessary to merge units or otherwise alter the composition of units, and the extent to which it was necessary to merge or otherwise alter objectives, in order to compensate for limitations on the deployability of activated Reserves resulting from deficiencies in the health status or medical fitness of activated Reserves.

(C) With respect to the matters reviewed under subparagraph (C) of paragraph (2), an assessment of the extent of the compliance of reserve component personnel with Department of Defense policies on routine medical and physical fitness examinations that are applicable to the reserve components of the Armed Forces.

(D) An analysis of the extent to which the medical care, if any, provided to activated Reserves in each theater of operations referred to in paragraph (1) related to preexisting conditions that were not adequately addressed before the deployment of such personnel to the theater.

(4) DEFINITIONS.—In this subsection:

(A) The term "activated Reserves" means the members of the Armed Forces referred to in paragraph (1).

(B) The term "active duty for a period of more than 30 days" has the meaning given such term in section 101(d) of title 10, United States Code.

(C) The term "health condition" includes a mental health condition and a dental condition.

(D) The term "reserve components of the Armed Forces" means the reserve components listed in section 10101 of title 10, United States Code.

(b) ACCOUNTABILITY FOR MEDICAL READINESS OF INDIVIDUALS AND UNITS OF THE RESERVE COMPONENTS.—

(1) POLICY.—The Secretary of Defense shall take measures, in addition to those required by section 1074f of title 10, United States Code, to ensure that individual members and commanders of reserve component units fulfill their responsibilities and meet the requirements for medical and dental readiness of members of the units. Such measures may include—

(A) requiring more frequent health assessments of members than is required by section 1074f(b) of title 10, United States Code, with an objective of having every member of the Selected Reserve receive a health assessment as specified in section 1074f of such title not less frequently than once every two years; and

(B) providing additional support and information to commanders to assist them in improving the health status of members of their units.

(2) REVIEW AND FOLLOWUP CARE.—The measures under this subsection shall provide for review of the health assessments under paragraph (1) by a medical professional and for any followup care and treatment that is otherwise authorized for medical or dental readiness.

(3) MODIFICATION OF PREDEPLOYMENT HEALTH ASSESSMENT SURVEY.—In carrying out paragraph (1), the Secretary shall—

(A) to the extent practicable, modify the predeployment health assessment survey to bring such survey into conformity with the detailed postdeployment health assessment survey in use as of October 1, 2004; and

(B) ensure the use of the predeployment health assessment survey, as so modified, for predeployment health assessments after that date.

(c) UNIFORM POLICY ON DEFERRAL OF MEDICAL TREATMENT PENDING DEPLOYMENT TO THEATERS OF OPERATIONS.—

(1) REQUIREMENT FOR POLICY.—The Secretary of Defense shall prescribe, for uniform applicability throughout the Armed Forces, a policy on deferral of medical treatment of members pending deployment.

(2) CONTENT.—The policy prescribed under paragraph (1) may specify the following matters:

(A) The circumstances under which treatment for medical conditions may be deferred to be provided within a theater of operations in order to prevent delay or other disruption of a deployment to that theater.

(B) The circumstances under which medical conditions are to be treated before deployment to that theater.

**SEC. 733. BASELINE HEALTH DATA COLLECTION PROGRAM.**

(a) REQUIREMENT FOR PROGRAM.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1092 the following new section:

### "§ 1092a. Persons entering the armed forces: baseline health data

"(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program—

"(1) to collect baseline health data from each person entering the armed forces, at the time of entry into the armed forces; and

"(2) to provide for computerized compilation and maintenance of the baseline health data.

"(b) PURPOSES.—The program under this section shall be designed to achieve the following purposes:

"(1) To facilitate understanding of how subsequent exposures related to service in the armed forces affect health.

"(2) To facilitate development of early intervention and prevention programs to protect health and readiness.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1092 the following new item:

"1092a. Persons entering the armed forces: baseline health data.".

(3) TIME FOR IMPLEMENTATION.—The Secretary of Defense shall implement the program required under section 1092a of title 10, United States Code (as added by paragraph (1)), not later than two years after the date of the enactment of this Act.

(b) INTERIM STANDARDS FOR BLOOD SAMPLING.—

(1) TIME REQUIREMENTS.—Subject to paragraph (2), the Secretary of Defense shall require that—

(A) the blood samples necessary for the predeployment medical examination of a member of the Armed Forces required under section 1074f(b) of title 10, United States Code, be drawn not earlier than 120 days before the date of the deployment; and

(B) the blood samples necessary for the postdeployment medical examination of a member of the Armed Forces required under such section 1074f(b) of such title be drawn not later than 30 days after the date on which the deployment ends.

(2) CONTINGENT APPLICABILITY.—The standards under paragraph (1) shall apply unless the Joint Medical Readiness Oversight Committee established by section 1301 recommends, and the Secretary approves, different standards for blood sampling.

**SEC. 734. MEDICAL CARE AND TRACKING AND HEALTH SURVEILLANCE IN THE THEATER OF OPERATIONS.**

(a) RECORDKEEPING POLICY.—The Secretary of Defense shall prescribe a policy that requires the records of all medical care provided to a member of the Armed Forces in a theater of operations to be maintained as part of a complete health record for the member.

(b) IN-THEATER MEDICAL TRACKING AND HEALTH SURVEILLANCE.—

(1) REQUIREMENT FOR EVALUATION.—The Secretary of Defense shall evaluate the system for the medical tracking and health surveillance of members of the Armed Forces in theaters of operations and take such actions as may be necessary to improve the medical tracking and health surveillance.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit a report on the actions taken under paragraph (1) to the Committees on Armed Services of the Senate and the House

of Representatives. The report shall include the following matters:

(A) An analysis of the strengths and weaknesses of the medical tracking system administered under section 1074f of title 10, United States Code.

(B) An analysis of the efficacy of health surveillance systems as a means of detecting—

(i) any health problems (including mental health conditions) of members of the Armed Forces contemporaneous with the performance of the assessment under the system; and

(ii) exposures of the assessed members to environmental hazards that potentially lead to future health problems.

(C) An analysis of the strengths and weaknesses of such medical tracking and surveillance systems as a means for supporting future research on health issues.

(D) Recommended changes to such medical tracking and health surveillance systems.

(E) A summary of scientific literature on blood sampling procedures used for detecting and identifying exposures to environmental hazards.

(F) An assessment of whether there is a need for changes to regulations and standards for drawing blood samples for effective tracking and health surveillance of the medical conditions of personnel before deployment, upon the end of a deployment, and for a followup period of appropriate length.

(c) PLAN TO OBTAIN HEALTH CARE RECORDS FROM ALLIES.—The Secretary of Defense shall develop a plan for obtaining all records of medical treatment provided to members of the Armed Forces by allies of the United States in Operation Enduring Freedom and Operation Iraqi Freedom. The plan shall specify the actions that are to be taken to obtain all such records.

(d) POLICY ON IN-THEATER PERSONNEL LOCATOR DATA.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall prescribe a Department of Defense policy on the collection and dissemination of in-theater individual personnel location data.

**SEC. 735. DECLASSIFICATION OF INFORMATION ON EXPOSURES TO ENVIRONMENTAL HAZARDS.**

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall review and, as determined appropriate, revise the classification policies of the Department of Defense with a view to facilitating the declassification of data that is potentially useful for the monitoring and assessment of the health of members of the Armed Forces who have been exposed to environmental hazards during deployments overseas, including the following data:

(1) In-theater injury rates.

(2) Data derived from environmental surveillance.

(3) Health tracking and surveillance data.

(b) CONSULTATION WITH COMMANDERS OF THEATER COMBATANT COMMANDS.—The Secretary shall, to the extent that the Secretary considers appropriate, consult with the senior commanders of the in-theater forces of the combatant commands in carrying out the review and revising policies under subsection (a).

**SEC. 736. REPORT ON TRAINING ON ENVIRONMENTAL HAZARDS.**

(a) REQUIREMENT FOR REPORT ON TRAINING OF FIELD MEDICAL PERSONNEL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the training on environmental hazards that is provided by the Armed Forces to medical personnel of the Armed Forces who are deployable to the field in direct support of combat personnel.

(b) CONTENT.—The report under subsection (a) shall include the following:

(1) An assessment of the adequacy of the training regarding—

(A) the identification of common environmental hazards and exposures to such hazards; and

(B) the prevention and treatment of adverse health effects of such exposures.

(2) A discussion of the actions taken and to be taken to improve such training.

**SEC. 737. UNIFORM POLICY FOR MEETING MOBILIZATION-RELATED MEDICAL CARE NEEDS AT MILITARY INSTALLATIONS.**

(a) HEALTH CARE AT MOBILIZATION INSTALLATIONS.—The Secretary of Defense shall take such steps as necessary, including through the uniform policy established under subsection (c), to ensure that anticipated health care needs of members of the Armed Forces at mobilization installations can be met at those installations. Such steps may, within authority otherwise available to the Secretary, include the following with respect to any such installation:

(1) Arrangements for health care to be provided by the Secretary of Veterans Affairs.

(2) Procurement of services from local health care providers.

(3) Temporary employment of health care personnel to provide services at such installation.

(b) MOBILIZATION INSTALLATIONS.—For purposes of this section, the term "mobilization installation" means a military installation at which members of the Armed Forces, in connection with a contingency operation or during a national emergency—

(1) are mobilized;

(2) are deployed; or

(3) are redeployed from a deployment location.

(c) REQUIREMENT FOR REGULATIONS.—

(1) POLICY ON IMPLEMENTATION.—The Secretary of Defense shall by regulation establish a policy for the implementation of subsection (a) throughout the Department of Defense.

(2) IDENTIFICATION AND ANALYSIS OF NEEDS.—As part of the policy prescribed under paragraph (1), the Secretary shall require the Secretary of each military department, with respect to each mobilization installation under the jurisdiction of that Secretary, to identify and analyze the anticipated health care needs at that installation with respect to members of the Armed Forces who may be expected to mobilize or deploy or redeploy at that installation as described in subsection (b)(1). Such identification and analysis shall be carried out so as to be completed before the arrival of such members at the installation.

(3) RESPONSE TO NEEDS.—The policy established by the Secretary of Defense under paragraph (1) shall require that, based on the results of the identification and analysis under paragraph (2), the Secretary of the military department concerned shall determine how to expeditiously and effectively respond to those anticipated health care needs that cannot be met within the resources otherwise available at that installation, in accordance with subsection (a).

(4) IMPLEMENTATION OF AUTHORITY.—In implementing the policy established under paragraph (1) at any installation, the Secretary of the military department concerned shall ensure that the commander of the installation, and the officers and other personnel superior to that commander in that commander's chain of command, have appropriate authority and responsibility for such implementation.

(d) POLICY.—The Secretary of Defense shall ensure—

(1) that the policy prescribed under subsection (c) is carried out with respect to any mobilization installation with the involvement of all agencies of the Department of Defense that have responsibility for management of the installation and all organizations of the Department that have command authority over any activity at the installation; and

(2) that such policy is implemented on a uniform basis throughout the Department of Defense.

**SEC. 738. FULL IMPLEMENTATION OF MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE PROGRAM AND FORCE HEALTH PROTECTION AND READINESS PROGRAM.**

(a) IMPLEMENTATION AT ALL LEVELS.—The Secretary of Defense, in conjunction with the Secretaries of the military departments, shall take such actions as are necessary to ensure that the Army, Navy, Air Force, and Marine Corps fully implement at all levels—

(1) the Medical Readiness Tracking and Health Surveillance Program under this title and the amendments made by this title; and

(2) the Force Health Protection and Readiness Program of the Department of Defense (relating to the prevention of injury and illness and the reduction of disease and noncombat injury threats).

(b) ACTION OFFICIAL.—The Secretary of Defense may act through the Under Secretary of Defense for Personnel and Readiness in carrying out subsection (a).

**SEC. 739. REPORTS AND INTERNET ACCESSIBILITY RELATING TO HEALTH MATTERS.**

(a) ANNUAL REPORTS.—

(1) REQUIREMENT FOR REPORTS.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1073a the following new section:

**"§ 1073b. Recurring reports**

"(a) ANNUAL REPORT ON HEALTH PROTECTION QUALITY.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives each year a report on the Force Health Protection Quality Assurance Program of the Department of Defense. The report shall cover

the calendar year preceding the year in which the report is submitted and include the following matters:

"(A) The results of an audit conducted during the calendar year covered by the report of the extent to which the blood samples required to be obtained as described in section 733(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 from members of the armed forces before and after a deployment are stored in the blood serum repository of the Department of Defense.

"(B) The results of an audit conducted during the calendar year covered by the report of the extent to which the records of the health assessments required under section 1074f of this title for members of the armed forces before and after a deployment are being maintained in the electronic database of the Defense Medical Surveillance System.

"(C) An analysis of the actions taken by Department of Defense personnel to respond to health concerns expressed by members of the armed forces upon return from a deployment.

"(D) An analysis of the actions taken by Department of Defense personnel to evaluate or treat members of the armed forces who are confirmed to have been exposed to occupational or environmental hazards deleterious to their health during a deployment.

"(2) The Secretary of Defense shall act through the Assistant Secretary of Defense for Health Affairs in carrying out this subsection.

"(b) ANNUAL REPORT ON RECORDING OF HEALTH ASSESSMENT DATA IN MILITARY HEALTH RECORDS.—The Secretary of Defense shall issue each year a report on the compliance by the military departments with applicable law and policies on the recording of health assessment data in military health records, including compliance with section 1074f(c) of this title. The report shall cover the calendar year preceding the year in which the report is submitted and include a discussion of the extent to which immunization status and predeployment and postdeployment health care data are being recorded in such records.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1073a the following new item:

"1073b. Recurring reports.".

(3) INITIAL REPORTS.—The first reports under section 1073b of title 10, United States Code (as added by paragraph (1)), shall be completed not later than 180 days after the date of the enactment of this Act.

(b) INTERNET ACCESSIBILITY OF HEALTH ASSESSMENT INFORMATION FOR MEMBERS OF THE ARMED FORCES.—Not later than one year after the date of the enactment of this Act, the Chief Information Officer of each military department shall ensure that the online portal website of that military department includes the following information relating to health assessments:

(1) Information on the policies of the Department of Defense and the military department concerned regarding predeployment and postdeployment health assessments, including policies on the following matters:

(A) Health surveys.

(B) Physical examinations.

(C) Collection of blood samples and other tissue samples.

(2) Procedural information on compliance with such policies, including the following information:

(A) Information for determining whether a member is in compliance.

(B) Information on how to comply.

(3) Health assessment surveys that are either—

(A) web-based; or

(B) accessible (with instructions) in printer-ready form by download.

# TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

**Subtitle A—Acquisition Policy and Management**

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Sec. 802. Internal controls for Department of Defense procurements through GSA Client Support Centers.
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# Subtitle A—Acquisition Policy and Management

**SEC. 801. SOFTWARE-RELATED PROGRAM COSTS UNDER MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) CONTENT OF QUARTERLY UNIT COST REPORT.—Subsection (b) of section 2433 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any significant changes in the total program cost for development and procurement of the software component of the program, schedule milestones for the software component of the program, or expected performance for the software component of the program that are known, expected, or anticipated by the program manager.".

(b) CONTENT OF SELECTED ACQUISITION REPORT.—(1) Subsection (g)(1) of such section is amended by adding at the end the following new subparagraph:

"(Q) In any case in which one or more problems with the software component of the program significantly contributed to the increase in program unit costs, the action taken and proposed to be taken to solve such problems.".

(2) Section 2432(e) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(B) by inserting after paragraph (6) the following new paragraph (7):

"(7) The reasons for any significant changes (from the previous Selected Acquisition Report) in the total program cost for development and procurement of the software component of the program, schedule milestones for the software component of the program, or expected performance for the software component of the program that are known, expected, or anticipated by the program manager.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date occurring 60 days after the date of the enactment of this Act, and shall apply with respect to reports due to be submitted to Congress on or after such date.

**SEC. 802. INTERNAL CONTROLS FOR DEPARTMENT OF DEFENSE PROCUREMENTS THROUGH GSA CLIENT SUPPORT CENTERS.**

(a) INITIAL INSPECTOR GENERAL REVIEW AND DETERMINATION.—(1) Not later than March 15, 2005, the Inspector General of the Department of Defense and the Inspector General of the General Services Administration shall jointly—

(A) review—

(i) the policies, procedures, and internal controls of each GSA Client Support Center; and

(ii) the administration of those policies, procedures, and internal controls; and

(B) for each such Center, determine in writing whether—

(i) the Center is compliant with defense procurement requirements;

(ii) the Center is not compliant with defense procurement requirements, but the Center made significant progress during 2004 toward becoming compliant with defense procurement requirements; or

(iii) neither of the conclusions stated in clauses (i) and (ii) is correct.

(2) If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of such paragraph is correct in the case of a GSA Client Support Center, those Inspectors General shall, not later than March 15, 2006, jointly—

(A) conduct a second review regarding that GSA Client Support Center as described in paragraph (1)(A); and

(B) determine in writing whether that GSA Client Support Center is or is not compliant with defense procurement requirements.

(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a GSA Client Support Center is compliant with defense procurement requirements if the GSA Client Support Center's policies, procedures, and internal controls, and the manner in which they are administered, are adequate to ensure compliance of that Center with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

(c) LIMITATIONS ON PROCUREMENTS THROUGH GSA CLIENT SUPPORT CENTERS.—(1) After March 15, 2005, and before March 16, 2006, no official of the Department of Defense may, except as provided in subsection (d) or (e), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through any GSA Client Support Center for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

(2) After March 15, 2006, no official of the Department of Defense may, except as provided in subsection (d) or (e), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through any GSA Client Support Center that has not been determined under this section as being compliant with defense procurement requirements.

(d) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—(1) No limitation applies under subsection (c) with respect to the procurement of property and services from a particular GSA Client Support Center during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through that GSA Client Support Center.

(2) A written determination with respect to a GSA Client Support Center under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary of Defense for Acquisition, Technology, and Logistics shall specify in the written

determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

(e) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (c) shall cease to apply to a GSA Client Support Center on the date on which the Inspector General of the Department of Defense and the Inspector General of the General Services Administration jointly determine that such Center is compliant with defense procurement requirements and notify the Secretary of Defense of that determination.

(f) GSA CLIENT SUPPORT CENTER DEFINED.—In this section, the term "GSA Client Support Center" means a Client Support Center of the Federal Technology Service of the General Services Administration.

**SEC. 803. DEFENSE COMMERCIAL COMMUNICATIONS SATELLITE SERVICES PROCUREMENT PROCESS.**

(a) REQUIREMENT FOR DETERMINATION.—The Secretary of Defense shall review all potential mechanisms for procuring commercial communications satellite services and provide guidance to the Director of the Defense Information Systems Agency and the Secretaries of the military departments on how such procurements should be conducted. The alternative procurement mechanisms reviewed by the Secretary of Defense shall, at a minimum, include the following:

(1) Procurement under indefinite delivery, indefinite quantity contracts of other departments and agencies of the Federal Government, including the Federal Technology Service of the General Services Administration.

(2) Procurement directly from commercial sources that are qualified as described in subsection (b), using full and open competition (as defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))).

(3) Procurement by any other means that has been used by the Director of the Defense Information Systems Agency or the Secretary of a military department to enter into a contract for the procurement of commercial communications satellite services that is in force on the date of the enactment of this Act, including through commercial communications satellite service integrators and resellers.

(4) Procurement under the method used as of the date of the enactment of this Act, modified with streamlined processes to ensure increased efficiency and cost effectiveness.

(b) QUALIFIED SOURCES.—A source of commercial communications satellite services referred to in paragraph (2) of subsection (a) is a qualified source if the source is incorporated under the laws of a State of the United States and is either—

(1) a source of commercial communications satellite services under a Federal Technology Service contract for the procurement of commercial communications satellite services described in paragraph (1) of such subsection that is in force on the date of the enactment of this Act; or

(2) a source of commercial communications satellite services that meets qualification requirements (as defined in section 2319 of title 10, United States Code, and established in accordance with that section) to enter into a Federal Technology

Service contract for the procurement of commercial communications satellite services.

(c) REPORT.—Not later than April 30, 2005, the Secretary of Defense shall submit to Congress a report setting forth the conclusions resulting from the Secretary's review under subsection (a). The report shall include—

(1) the guidance provided under such subsection; and

(2) a discussion of the rationale for that guidance and how the guidance will address each recommendation made in the December 2003 report of the General Accounting Office titled "Satellite Communications: Strategic Approach Needed for DOD's Procurement of Commercial Satellite BandWidth" (GAO–04–206).

(d) EFFECTIVE DATE.—(1) The Secretary may not enter into a contract for commercial communications satellite services (using any mechanism reviewed under subsection (a) or otherwise) until the expiration of 30 days after the date on which the report described in subsection (c) has been received by Congress, unless the Secretary determines that such a contract is required to meet urgent national security requirements.

(2) Notwithstanding paragraph (1), the Secretary may issue a task order or delivery order under a contract for commercial communications satellite services that was awarded before the date of the enactment of this Act.

**SEC. 804. CONTRACTOR PERFORMANCE OF ACQUISITION FUNCTIONS CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS.**

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2382 the following new section:

**"§ 2383. Contractor performance of acquisition functions closely associated with inherently governmental functions**

"(a) LIMITATION.—The head of an agency may enter into a contract for the performance of acquisition functions closely associated with inherently governmental functions only if the contracting officer for the contract ensures that—

"(1) appropriate military or civilian personnel of the Department of Defense cannot reasonably be made available to perform the functions;

"(2) appropriate military or civilian personnel of the Department of Defense are—

"(A) to supervise contractor performance of the contract; and

"(B) to perform all inherently governmental functions associated with the functions to be performed under the contract; and

"(3) the agency addresses any potential organizational conflict of interest of the contractor in the performance of the functions under the contract, consistent with subpart 9.5 of part 9 of the Federal Acquisition Regulation and the best interests of the Department of Defense.

"(b) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' has the meaning given such term in section 2302(1) of this title, except that such

term does not include the Secretary of Homeland Security or the Administrator of the National Oceanic and Atmospheric Administration.

"(2) The term 'inherently governmental functions' has the meaning given such term in subpart 7.5 of part 7 of the Federal Acquisition Regulation.

"(3) The term 'functions closely associated with inherently governmental functions' means the functions described in section 7.503(d) of the Federal Acquisition Regulation.

"(4) The term 'organizational conflict of interest' has the meaning given such term in subpart 9.5 of part 9 of the Federal Acquisition Regulation.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2382 the following new item:

"2383. Contractor performance of acquisition functions closely associated with inherently governmental functions.".

(b) EFFECTIVE DATE.—Section 2383 of title 10, United States Code (as added by subsection (a)), shall apply to contracts entered into on or after the date of the enactment of this Act.

**SEC. 805. SUSTAINMENT PLANS FOR EXISTING SYSTEMS WHILE REPLACEMENT SYSTEMS ARE UNDER DEVELOPMENT.**

(a) EXISTING SYSTEMS TO BE MAINTAINED WHILE REPLACEMENT SYSTEMS ARE UNDER DEVELOPMENT.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2436 the following new section:

**"§ 2437. Development of major defense acquisition programs: sustainment of system to be replaced**

"(a) REQUIREMENT FOR SUSTAINING EXISTING FORCES.—(1) The Secretary of Defense shall require that, whenever a new major defense acquisition program begins development, the defense acquisition authority responsible for that program shall develop a plan (to be known as a 'sustainment plan') for the existing system that the system under development is intended to replace. Any such sustainment plan shall provide for an appropriate level of budgeting for sustaining the existing system until the replacement system to be developed under the major defense acquisition program is fielded and assumes the majority of responsibility for the mission of the existing system. This section does not apply to a major defense acquisition that reaches initial operational capability before October 1, 2008.

"(2) In this section, the term 'defense acquisition authority' means the Secretary of a military department or the commander of the United States Special Operations Command.

"(b) SUSTAINMENT PLAN.—The Secretary of Defense shall require that each sustainment plan under this section include, at a minimum, the following:

"(1) The milestone schedule for the development of the major defense acquisition program, including the scheduled dates for low-rate initial production, initial operational capability, full-rate production, and full operational capability and the date as of when the replacement system is scheduled to assume the majority of responsibility for the mission of the existing system.

"(2) An analysis of the existing system to assess the following:

"(A) Anticipated funding levels necessary to—

"(i) ensure acceptable reliability and availability rates for the existing system; and

"(ii) maintain mission capability of the existing system against the relevant threats.

"(B) The extent to which it is necessary and appropriate to—

"(i) transfer mature technologies from the new system or other systems to enhance the mission capability of the existing system against relevant threats; and

"(ii) provide interoperability with the new system during the period from initial fielding until the new system assumes the majority of responsibility for the mission of the existing system.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to a major defense acquisition program if the Secretary of Defense determines that—

"(1) the existing system is no longer relevant to the mission;

"(2) the mission has been eliminated;

"(3) the mission has been consolidated with another mission in such a manner that another existing system can adequately meet the mission requirements; or

"(4) the duration of time until the new system assumes the majority of responsibility for the existing system's mission is sufficiently short so that mission availability, capability, interoperability, and force protection requirements are maintained.

"(d) WAIVER.—The Secretary of Defense may waive the applicability of subsection (a) to a major defense acquisition program if the Secretary determines that, but for such a waiver, the Department would be unable to meet national security objectives. Whenever the Secretary makes such a determination and authorizes such a waiver, the Secretary shall submit notice of such waiver and of the Secretary's determination and the reasons therefor in writing to the congressional defense committees.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2436 the following new item:

"2437. Development of major defense acquisition programs: sustainment of system to be replaced.".

(b) APPLICATION TO EXISTING PROGRAMS IN DEVELOPMENT.—Section 2437 of title 10, United States Code, as added by subsection (a), shall apply with respect to a major defense acquisition program for a system that is under development as of the date of the enactment of this Act and is not expected to reach initial operational capability before October 1, 2008. The Secretary of Defense shall require that a sustainment plan under that section be developed not later than one year after the date of the enactment of this Act for the existing system that the system under development is intended to replace.

**SEC. 806. APPLICABILITY OF COMPETITION EXCEPTIONS TO ELIGIBILITY OF NATIONAL GUARD FOR FINANCIAL ASSISTANCE FOR PERFORMANCE OF ADDITIONAL DUTIES.**

Section 113(b)(1)(B) of title 32, United States Code, is amended by inserting before the period at the end the following: ", subject to the exceptions provided in section 2304(c) of title 10".

**SEC. 807. INFLATION ADJUSTMENT OF ACQUISITION-RELATED DOLLAR THRESHOLDS.**

(a) INFLATION ADJUSTMENT AUTHORITY.—(1) The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by inserting after section 35 the following new section:

**"SEC. 35A. INFLATION ADJUSTMENT OF ACQUISITION-RELATED DOLLAR THRESHOLDS.**

"(a) REQUIREMENT FOR PERIODIC ADJUSTMENT.—(1) On October 1 of each year that is evenly divisible by five, the Federal Acquisition Regulatory Council shall adjust each acquisition-related dollar threshold provided by law, as described in subsection (c), to the baseline constant dollar value of that threshold.

"(2) For the purposes of paragraph (1), the baseline constant dollar value—

"(A) for a dollar threshold in effect on October 1, 2000, that was first specified in a law that took effect on or before such date shall be the October 1, 2000, constant dollar value of that dollar threshold; and

"(B) for a dollar threshold specified in a law that takes effect after October 1, 2000, shall be the constant dollar value of that threshold as of the effective date of that dollar threshold pursuant to such law.

"(b) ADJUSTMENTS EFFECTIVE UPON PUBLICATION.—The Federal Acquisition Regulatory Council shall publish a notice of the adjusted dollar thresholds under this section in the Federal Register. The adjusted dollar thresholds shall take effect on the date of publication.

"(c) ACQUISITION-RELATED DOLLAR THRESHOLDS.—Except as provided in subsection (d), the requirement for adjustment under subsection (a) applies to a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as determined by the Federal Acquisition Regulatory Council.

"(d) EXCLUDED THRESHOLDS.—Subsection (a) does not apply to—

"(1) dollar thresholds in sections 3141 through 3144, 3146, and 3147 of title 40, United States Code;

"(2) dollar thresholds in the Service Contract Act of 1965 (41 U.S.C. 351, et seq.); or

"(3) dollar thresholds established by the United States Trade Representative pursuant to title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.).

"(e) CALCULATION OF ADJUSTMENTS.—An adjustment under this section shall—

"(1) be calculated on the basis of changes in the Consumer Price Index for all-urban consumers published monthly by the Department of Labor; and

"(2) be rounded—

"(A) in the case of a dollar threshold that (as in effect on the day before the adjustment) is less than $10,000, to the nearest $500;

"(B) in the case of a dollar threshold that (as in effect on the day before the adjustment) is not less than $10,000, but is less than $100,000, to the nearest $5,000;

"(C) in the case of a dollar threshold that (as in effect on the day before the adjustment) is not less than $100,000, but is less than $1,000,000, to the nearest $50,000; and

"(D) in the case of a dollar threshold that (as in effect on the day before the adjustment) is $1,000,000 or more, to the nearest $500,000.

"(f) PETITION FOR INCLUSION OF OMITTED THRESHOLD.—(1) If a dollar threshold adjustable under this section is not included in a notice of adjustment published under subsection (b), any person may request adjustment of that dollar threshold by submitting a petition for adjustment to the Administrator for Federal Procurement Policy.

"(2) Upon receipt of a petition for adjustment of a dollar threshold under paragraph (1), the Administrator shall—

"(A) determine, in writing, whether that dollar threshold is required to be adjusted under this section; and

"(B) if so, shall publish in the Federal Register a revised notice of the adjusted dollar thresholds under this section that includes the adjustment of the dollar threshold covered by the petition.

"(3) The adjustment of a dollar threshold pursuant to a petition under this subsection shall take effect on the date of the publication of the revised notice adding the adjustment of that dollar threshold under paragraph (2)(B).".

(2) The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 35 the following new item:

"Sec. 35A. Inflation adjustment of acquisition-related dollar thresholds.".

(b) DEFINITION OF FEDERAL ACQUISITION REGULATORY COUNCIL.—Section 4 of such Act is amended by adding at the end the following new paragraph:

"(17) The term 'Federal Acquisition Regulatory Council' means the Federal Acquisition Regulatory Council established under section 25.".

(c) RELATIONSHIP TO OTHER INFLATION ADJUSTMENT AUTHORITIES.—(1) Section 35A of the Office of Federal Procurement Policy Act, as added by subsection (a), supersedes the applicability of any other provision of law that provides for the adjustment of a dollar threshold that is adjustable under such section.

(2) After the date of the enactment of this Act, a dollar threshold adjustable under section 35A of the Office of Federal Procurement Policy Act, as added by subsection (a), shall be adjusted only as provided under that section.

# Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitations

**SEC. 811. RAPID ACQUISITION AUTHORITY TO RESPOND TO COMBAT EMERGENCIES.**

Section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note) is amended—

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

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

"(c) RESPONSE TO COMBAT EMERGENCIES.—(1) In the case of any equipment that, as determined in writing by the Secretary of Defense without delegation, is urgently needed to eliminate a combat capability deficiency that has resulted in combat fatalities, the Secretary shall use the procedures developed under this section in order to accomplish the rapid acquisition and deployment of the needed equipment.

"(2)(A) Whenever the Secretary makes a determination under paragraph (1) that certain equipment is urgently needed to eliminate a combat capability deficiency that has resulted in combat fatalities, the Secretary shall designate a senior official of the Department of Defense to ensure that the needed equipment is acquired and deployed as quickly as possible, with a goal of awarding a contract for the acquisition of the equipment within 15 days.

"(B) Upon designation of a senior official under subparagraph (A), the Secretary shall authorize that official to waive any provision of law, policy, directive, or regulation described in subsection (d) that such official determines in writing would unnecessarily impede the rapid acquisition and deployment of the needed equipment. In a case in which the needed equipment cannot be acquired without an extensive delay, the senior official shall require that an interim solution be implemented and deployed using the procedures developed under this section to minimize the combat capability deficiency and combat fatalities.

"(3) The authority of this section may not be used to acquire equipment in an amount aggregating more than $100,000,000 during any fiscal year. For acquisitions of equipment under this section during the fiscal year in which the Secretary makes the determination described in paragraph (1) with respect to such equipment, the Secretary may use any funds available to the Department of Defense for that fiscal year.

"(4) The Secretary of Defense shall notify the congressional defense committees within 15 days after each determination made under paragraph (1). Each such notice shall identify—

"(A) the equipment to be acquired;

"(B) the amount anticipated to be expended for the acquisition; and

"(C) the source of funds for the acquisition.

"(5) Any acquisition initiated under this subsection shall transition to the normal acquisition system not later than two years after the date on which the Secretary makes the determination described in paragraph (1) with respect to that equipment.

"(d) WAIVER OF CERTAIN STATUES AND REGULATIONS.—(1) Upon a determination described in subsection (c)(1), the senior official designated in accordance with subsection (c)(2) with respect to that designation is authorized to waive any provision of law, policy, directive or regulation addressing—

"(A) the establishment of the requirement for the equipment;

"(B) the research, development, test, and evaluation of the equipment; or

"(C) the solicitation and selection of sources, and the award of the contract, for procurement of the equipment.

"(2) Nothing in this subsection authorizes the waiver of—

"(A) the requirements of this section or the regulations implementing this section; or

"(B) any provision of law imposing civil or criminal penalties.".

**SEC. 812. DEFENSE ACQUISITION WORKFORCE IMPROVEMENTS.**

(a) SELECTION CRITERIA FOR ACQUISITION CORPS AND FOR CRITICAL ACQUISITION POSITIONS.—(1) Section 1732(b) of title 10, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(2) Section 1733(b)(1) of title 10, United States Code, is amended in subparagraph (A) by striking "in a position within grade GS–14 or above of the General Schedule," and inserting "in a senior position in the National Security Personnel System, as determined in accordance with guidelines prescribed by the Secretary,".

(b) SCHOLARSHIP PROGRAM REQUIREMENTS.—Section 1742 of such title is amended—

(1) by inserting "(a) PROGRAMS.—" at the beginning of the text; and

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

"(b) SCHOLARSHIP PROGRAM REQUIREMENTS.—Each recipient of a scholarship under a program conducted under subsection (a)(3) shall be required to sign a written agreement that sets forth the terms and conditions of the scholarship. The agreement shall be in a form prescribed by the Secretary and shall include terms and conditions, including terms and conditions addressing reimbursement in the event that a recipient fails to fulfill the requirements of the agreement, that are comparable to those set forth as a condition for providing advanced education assistance under section 2005. The obligation to reimburse the United States under an agreement under this subsection is, for all purposes, a debt owing the United States.".

(c) AUTHORITY TO ESTABLISH MINIMUM REQUIREMENTS.—(1) Section 1764(b) of such title is amended—

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

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

"(5) Deputy program manager.".

(2) Paragraph (1) of such section is amended by striking "in paragraph (5)" and inserting "in paragraph (6)".

**SEC. 813. PERIOD FOR MULTIYEAR TASK AND DELIVERY ORDER CONTRACTS.**

(a) REVISED MAXIMUM PERIOD.—Section 2304a(f) of title 10, United States Code, is amended by striking "a total period of not more than five years." and inserting "any period up to five years and may extend the contract period for one or more successive periods pursuant to an option provided in the contract or a modification of the contract. The total contract period as extended may not exceed 10 years unless such head of an agency determines in writing that exceptional circumstances necessitate a longer contract period.".

(b) ANNUAL REPORT.—Not later than 60 days after the end of each of fiscal years 2005 through 2009, the Secretary of Defense shall submit to Congress a report setting forth each extension of a contract period to a total of more than 10 years that was granted for task and delivery order contracts of the Department of Defense during such fiscal year under section 2304a(f) of title 10, United States Code. The report shall include, with respect to each such contract period extension—

(1) a discussion of the exceptional circumstances on which the extension was based; and

(2) the justification for the determination of exceptional circumstances.

**SEC. 814. FUNDING FOR CONTRACT CEILINGS FOR CERTAIN MULTIYEAR PROCUREMENT CONTRACTS.**

(a) MULTIYEAR CONTRACTS RELATING TO PROPERTY.—Section 2306b(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "Before any";

(2) by striking "Committee" through "House of Representatives" and inserting "congressional defense committees"; and

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

"(2) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (1), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall, as part of the certification required by subsection (i)(1)(A), give written notification to the congressional defense committees of—

"(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

"(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

"(C) a financial risk assessment of not including budgeting for costs of contract cancellation.".

(b) MULTIYEAR CONTRACTS RELATING TO SERVICES.—Section 2306c(d) of title 10, United States Code, is amended—

(1) in paragraphs (1), (3), and (4), by striking "committees of Congress named in paragraph (5)" and inserting "congressional defense committees" each place it appears; and

(2) by amending paragraph (5) to read as follows:

"(5) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (4), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established

in the contract, the head of the agency concerned shall give written notification to the congressional defense committees of—

"(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

"(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

"(C) a financial risk assessment of not including budgeting for costs of contract cancellation.".

**SEC. 815. INCREASED THRESHOLD FOR SENIOR PROCUREMENT EXECUTIVE APPROVAL OF USE OF PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.**

Section 2304(f)(1)(B) of title 10, United States Code, is amended by striking "$50,000,000" both places it appears and inserting "$75,000,000".

**SEC. 816. INCREASED THRESHOLD FOR APPLICABILITY OF REQUIREMENT FOR DEFENSE CONTRACTORS TO PROVIDE INFORMATION ON SUBCONTRACTING AUTHORITY OF CONTRACTOR PERSONNEL TO COOPERATIVE AGREEMENT HOLDERS.**

Section 2416(d) of title 10, United States Code, is amended by striking "$500,000" and inserting "$1,000,000".

**SEC. 817. EXTENSION OF AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES.**

Section 4202(e) of the Clinger-Cohen Act (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended by striking "January 1, 2006" and inserting "January 1, 2008".

**SEC. 818. SUBMISSION OF COST OR PRICING DATA ON NONCOMMERCIAL MODIFICATIONS OF COMMERCIAL ITEMS.**

(a) INAPPLICABILITY OF COMMERCIAL ITEMS EXCEPTION TO NONCOMMERCIAL MODIFICATIONS OF COMMERCIAL ITEMS.—Subsection (b) of section 2306a of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) NONCOMMERCIAL MODIFICATIONS OF COMMERCIAL ITEMS.—(A) The exception in paragraph (1)(B) does not apply to cost or pricing data on noncommercial modifications of a commercial item that are expected to cost, in the aggregate, more than $500,000 or 5 percent of the total price of the contract, whichever is greater.

"(B) In this paragraph, the term 'noncommercial modification', with respect to a commercial item, means a modification of such item that is not a modification described in section 4(12)(C)(i) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(C)(i)).

"(C) Nothing in subparagraph (A) shall be construed—

"(i) to limit the applicability of the exception in subparagraph (A) or (C) of paragraph (1) to cost or pricing data on a noncommercial modification of a commercial item; or

"(ii) to require the submission of cost or pricing data on any aspect of an acquisition of a commercial item other than the cost and pricing of noncommercial modifications of such item.".

(b) EFFECTIVE DATE AND APPLICABILITY.—Paragraph (3) of section 2306a of title 10, United States Code (as added by subsection (a)), shall take effect on June 1, 2005, and shall apply with respect to offers submitted, and to modifications of contracts or subcontracts made, on or after that date.

**SEC. 819. DELEGATIONS OF AUTHORITY TO MAKE DETERMINATIONS RELATING TO PAYMENT OF DEFENSE CONTRACTORS FOR BUSINESS RESTRUCTURING COSTS.**

Section 2325(a)(2) of title 10, United States Code, is amended—

(1) by striking "paragraph (1) to an official" and all that follows and inserting "paragraph (1), with respect to a business combination, to an official of the Department of Defense—"; and

(2) by adding at the end the following:

"(A) below the level of an Assistant Secretary of Defense for cases in which the amount of restructuring costs is expected to exceed $25,000,000 over a 5-year period; or

"(B) below the level of the Director of the Defense Contract Management Agency for all other cases.".

**SEC. 820. AVAILABILITY OF FEDERAL SUPPLY SCHEDULE SUPPLIES AND SERVICES TO UNITED SERVICE ORGANIZATIONS, INCORPORATED.**

Section 220107 of title 36, United States Code, is amended by inserting after "Department of Defense" the following: ", including access to General Services Administration supplies and services through the Federal Supply Schedule of the General Services Administration,".

**SEC. 821. ADDITION OF LANDSCAPING AND PEST CONTROL SERVICES TO LIST OF DESIGNATED INDUSTRY GROUPS PARTICIPATING IN THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.**

(a) IN GENERAL.—Subsection (a) of section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph: "(5) landscaping and pest control services.".

(b) LANDSCAPING AND PEST CONTROL SERVICES.—Section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by redesignating subsection (e) as subsection (f), and

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

"(e) LANDSCAPING AND PEST CONTROL SERVICES.—Landscaping and pest control services shall include contract awards assigned to North American Industrial Classification Code 561710 (relating to exterminating and pest control services) or 561730 (relating to landscaping services).".

**SEC. 822. INCREASED THRESHOLDS UNDER SPECIAL EMERGENCY PROCUREMENT AUTHORITY.**

Section 32A(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 428a(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) the amount specified in subsections (c), (d), and (f) of section 32 shall be deemed to be—

"(A) $15,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

"(B) $25,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States; and"; and

(2) in paragraph (2)(B), by striking "$500,000" and inserting "$1,000,000".

## Subtitle C—United States Defense Industrial Base Provisions

**SEC. 831. DEFENSE TRADE RECIPROCITY.**

(a) POLICY.—It is the policy of Congress that procurement regulations used in the conduct of trade in defense articles and defense services should be based on the principle of fair trade and reciprocity consistent with United States national security, including the need to ensure comprehensive manufacturing capability in the United States defense industrial base.

(b) REQUIREMENT.—The Secretary of Defense shall make every effort to ensure that the policies and practices of the Department of Defense reflect the goal of establishing an equitable trading relationship between the United States and its foreign defense trade partners, including ensuring that United States firms and United States employment in the defense sector are not disadvantaged by unilateral procurement practices by foreign governments, such as the imposition of offset agreements in a manner that undermines the United States defense industrial base. In pursuing this goal, the Secretary shall—

(1) develop a comprehensive defense acquisition trade policy that provides the necessary guidance and incentives for the elimination of any adverse effects of offset agreements in defense trade; and

(2) review and make necessary modifications to existing acquisition policies and strategies, and review and seek to make necessary modifications to existing memoranda of understanding, cooperative project agreements, or related agreements with foreign defense trade partners, to reflect this goal.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section in the Department of Defense supplement to the Federal Acquisition Regulation.

(d) DEFINITIONS.—In this section:

(1) The term "foreign defense trade partner" means a foreign country with respect to which there is—

(A) a memorandum of understanding or related agreement described in section 2531(a) of title 10, United States Code; or

(B) a cooperative project agreement described in section 27 of the Arms Export Control Act (22 U.S.C. 2767).

(2) The term "offset agreement" has the meaning provided that term by section 36(e) of the Arms Export Control Act (22 U.S.C. 2776(e)).

(3) The terms "defense article" and "defense service" have the meanings provided those terms by section 47(7) of the Arms Export Control Act (22 U.S.C. 2794(7)).

**SEC. 832. ASSESSMENT AND REPORT ON THE ACQUISITION OF POLYACRYLONITRILE (PAN) CARBON FIBER FROM FOREIGN SOURCES.**

(a) REQUIREMENT.—The Secretary of Defense shall delay the phase-out of the restriction on acquisition of polyacrylonitrile (PAN) carbon fiber from foreign sources (described in subpart 225.7103 of the Department of Defense supplement to the Federal Acquisition Regulation) until an assessment of PAN carbon fiber industry is completed and 30 days have passed after submission of the report required under subsection (c).

(b) ASSESSMENT.—The Secretary of Defense shall perform a assessment of the domestic and international industrial structure that produces PAN carbon fibers, current and anticipated market trends for the product, and how the trends compare to the assessment as reported by the Secretary of Defense in January 2001.

(c) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the assessment performed under subsection (b) and on any decision made to maintain or discontinue the phase-out of procurement restrictions on foreign acquisition of PAN carbon fibers in the Department of Defense supplement to the Federal Acquisition Regulation.

## Subtitle D—Extensions of Temporary Program Authorities

**SEC. 841. EXTENSION OF MENTOR-PROTEGE PROGRAM.**

(a) EXTENSION OF PROGRAM.—Subsection (j) of 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 paragraph (1), by striking "September 30, 2005" and inserting "September 30, 2010"; and

(2) in paragraph (2), by striking "September 30, 2008" and inserting "September 30, 2013".

(b) EXTENSION OF REQUIREMENT FOR ANNUAL REPORT.—Subsection (l)(3) of such section is amended by striking "2007" and inserting "2010".

(c) ADDITIONAL FEASIBILITY REVIEW OF TRANSITION TO OTHER FINANCING METHODS.—(1) The Secretary of Defense shall conduct an additional review of the Mentor-Protege Program under section 811(d)(2) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 708).

(2) Not later than September 30, 2005, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives—

(A) a report on the results of the review conducted under paragraph (1); and

(B) any recommendations of the Secretary for legislative action.

(d) ADDITIONAL STUDY OF PROGRAM IMPLEMENTATION.—(1) The Comptroller General shall conduct an additional study of the

Mentor-Protege Program under section 811(d)(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 709).

(2) Not later than September 30, 2006, the Comptroller General shall submit a report on the results of the study conducted under paragraph (1) to the Committees on Armed Services of the Senate and the House of Representatives.

**SEC. 842. AMENDMENT TO MENTOR-PROTEGE PROGRAM.**

Section 831(m)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note) is amended—

(1) in subparagraph (D), by striking "or" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(F) a small business concern owned and controlled by service–disabled veterans (as defined in section 8(d)(3) of the Small Business Act); and

"(G) a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).".

**SEC. 843. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.**

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 15 U.S.C. 637 note) is amended by striking "September 30, 2005" and inserting "September 30, 2010".

**SEC. 844. EXTENSION OF PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES.**

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 by striking "through 2004" in the first sentence and inserting "through 2009".

## Subtitle E—Other Acquisition Matters

**SEC. 851. REVIEW AND DEMONSTRATION PROJECT RELATING TO CONTRACTOR EMPLOYEES.**

(a) GENERAL REVIEW.—(1) The Secretary of Defense shall conduct a review of policies, procedures, practices, and penalties of the Department of Defense relating to employees of defense contractors for purposes of ensuring that the Department of Defense is in compliance with Executive Order No. 12989 (relating to a prohibition on entering into contracts with contractors that are not in compliance with the Immigration and Nationality Act).

(2) In conducting the review, the Secretary shall—

(A) identify potential weaknesses and areas for improvement in existing policies, procedures, practices, and penalties;

(B) develop and implement reforms to strengthen, upgrade, and improve policies, procedures, practices, and penalties of the Department of Defense and its contractors; and

(C) review and analyze reforms developed pursuant to this paragraph to identify for purposes of national implementation those which are most efficient and effective.

(3) The review under this subsection shall be completed not later than 180 days after the date of the enactment of this Act.

(b) DEMONSTRATION PROJECT.—The Secretary of Defense shall conduct a demonstration project in accordance with this section, in one or more regions selected by the Secretary, for purposes of promoting greater contracting opportunities for contractors offering effective, reliable staffing plans to perform defense contracts that ensure all contract personnel employed for such projects, including management employees, professional employees, craft labor personnel, and administrative personnel, are lawful residents or persons properly authorized to be employed in the United States and properly qualified to perform services required under the contract. The demonstration project shall focus on contracts for construction, renovation, maintenance, and repair services for military installations.

(c) DEMONSTRATION PROJECT PROCUREMENT PROCEDURES.—As part of the demonstration project under subsection (b), the Secretary of Defense may conduct a competition in which there is a provision in contract solicitations and request for proposal documents to require significant weight or credit be allocated to—

(1) reliable, effective workforce programs offered by prospective contractors that provide background checks and other measures to ensure the contractor is in compliance with the Immigration and Nationality Act; and

(2) reliable, effective project staffing plans offered by prospective contractors that specify for all contract employees (including management employees, professionals, and craft labor personnel) the skills, training, and qualifications of such persons and the labor supply sources and hiring plans or procedures used for employing such persons.

(d) IMPLEMENTATION OF DEMONSTRATION PROJECT.—The Secretary of Defense shall begin operation of the demonstration project required under this section after completion of the review under subsection (a), but in no event later than 270 days after the date of the enactment of this Act.

(e) REPORT ON DEMONSTRATION PROJECT.—Not later than six months after award of a contract under the demonstration project, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a review of the demonstration project and recommendations on the actions, if any, that can be implemented to ensure compliance by the Department of Defense with Executive Order No. 12989.

(f) DEFINITION.—In this section, the term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

**SEC. 852. INAPPLICABILITY OF CERTAIN FISCAL LAWS TO SETTLEMENTS UNDER SPECIAL TEMPORARY CONTRACT CLOSE-OUT AUTHORITY.**

Section 804(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1541) is amended—

(1) by inserting "(1)" after "(a) AUTHORITY.—"; and

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

"(2) Under regulations which the Secretary of Defense may prescribe, a settlement of a financial account for a contract for the procurement of property or services under paragraph (1) may be made without regard to—

"(A) section 1301 of title 31, United States Code; and

"(B) any other provision of law that would preclude the Secretary from charging payments under the contract—

"(i) to an unobligated balance in an appropriation available for funding that contract; or

"(ii) if and to the extent that the unobligated balance (if any) in such appropriation is insufficient for funding such payments, to any current appropriation that is available to the Department of Defense for funding contracts for the procurement of the same or similar property or services.".

**SEC. 853. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.**

(a) INAPPLICABILITY OF RANDOLPH-SHEPPARD ACT TO MESS HALL SERVICES UNDER EXISTING JAVITS-WAGNER-O'DAY ACT CONTRACTS.—(1) The Randolph-Sheppard Act (20 U.S.C. 107 et seq.) does not apply to any contract described in paragraph (2) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.

(2) Paragraph (1) applies to any contract for the operation of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces that—

(A) was entered into before September 30, 2005, with a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely handicapped in compliance with section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48); and

(B) either—

(i) is in effect on such date; or

(ii) was in effect on November 24, 2003.

(b) INAPPLICABILITY OF JAVITS-WAGNER-O'DAY ACT TO MESS HALL SERVICES UNDER EXISTING RANDOLPH-SHEPPARD ACT CONTRACTS.—(1) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) does not apply to any contract described in paragraph (2) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.

(2) Paragraph (1) applies to any contract for the operation of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces that—

(A) was entered into before September 30, 2005, with a State licensing agency under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.); and

(B) either—

(i) is in effect on such date; or

(ii) was in effect on November 24, 2003.

(3) In this subsection, the term "State licensing agency" means an agency designated under section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)).

(c) REPEAL OF SUPERSEDED LAW.—Subsections (a) and (b) of section 852 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1556) are repealed.

**SEC. 854. DEFENSE PROCUREMENTS MADE THROUGH CONTRACTS OF OTHER AGENCIES.**

(a) LIMITATION.—The head of an agency may not procure goods or services (under section 1535 of title 31, United States Code, pursuant to a designation under section 11302(e) of title 40, United States Code, or otherwise) through a contract entered into by an agency outside the Department of Defense for an amount greater than the simplified acquisition threshold referred to in section 2304(g) of title 10, United States Code, unless the procurement is done in accordance with procedures prescribed by that head of an agency for reviewing and approving the use of such contracts.

(b) EFFECTIVE DATE.—The limitation in subsection (a) shall apply only with respect to orders for goods or services that are issued by the head of an agency to an agency outside the Department of Defense on or after the date that is 180 days after the date of the enactment of this Act.

(c) INAPPLICABILITY TO CONTRACTS FOR CERTAIN SERVICES.—This section does not apply to procurements of the following services:

(1) Printing, binding, or blank-book work to which section 502 of title 44, United States Code, applies.

(2) Services available under programs pursuant to section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 114 Stat. 2187; 2 U.S.C. 182c).

(d) ANNUAL REPORT.—(1) For each of fiscal years 2005 and 2006, each head of an agency shall submit to the Secretary of Defense a report on the service charges imposed on purchases made for an amount greater than the simplified acquisition threshold during such fiscal year through a contract entered into by an agency outside the Department of Defense.

(2) In the case of procurements made on orders issued by the head of a Defense Agency, Department of Defense Field Activity, or any other organization within the Department of Defense (other than a military department) under the authority of the Secretary of Defense as the head of an agency, the report under paragraph (1) shall be submitted by the head of that Defense Agency, Department of Defense Field Activity, or other organization, respectively.

(3) The report for a fiscal year under this subsection shall be submitted not later than December 31 of the calendar year in which such fiscal year ends.

(e) DEFINITIONS.—In this section:

(1) The term "head of an agency" means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force.

(2) The term "Defense Agency" has the meaning given such term in section 101(a)(11) of title 10, United States Code.

(3) The term "Department of Defense Field Activity" has the meaning given such term in section 101(a)(12) of such title.

**SEC. 855. REQUIREMENTS RELATING TO SOURCE SELECTION FOR INTEGRATED SUPPORT OF AERIAL REFUELING AIRCRAFT FLEET FOR THE AIR FORCE.**

For the selection of a provider of integrated support for the aerial refueling aircraft fleet in any acquisition of aerial refueling aircraft for the Air Force, the Secretary of the Air Force shall—

(1) before selecting the provider, perform all analyses required by law of—

(A) the costs and benefits of—

(i) the alternative of using Federal Government personnel to provide such support; and

(ii) the alternative of using contractor personnel to provide such support;

(B) the core logistics requirements;

(C) use of performance-based logistics; and

(D) the length of contract period; and

(2) select the provider in accordance with the procedures under the provisions of law referred to as the Competition in Contracting Act.

# TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

**Subtitle A—Duties and Functions of Department of Defense**

Sec. 901. Study of roles and authorities of the Director of Defense Research and Engineering.
Sec. 902. Change of membership of specified council.

**Subtitle B—Space Activities**

Sec. 911. Space posture review.
Sec. 912. Panel on the future of national security space launch.
Sec. 913. Operationally responsive national security satellites.
Sec. 914. Nondisclosure of certain products of commercial satellite operations.

**Subtitle C—Intelligence-Related Matters**

Sec. 921. Two-year extension of authority of the Secretary of Defense to engage in commercial activities as security for intelligence collection activities abroad.
Sec. 922. Pilot program on cryptologic service training.

**Subtitle D—Other Matters**

Sec. 931. Strategic plan for destruction of lethal chemical agents and munitions stockpile.
Sec. 932. Secretary of Defense criteria for and guidance on identification and internal transmission of critical information.

## Subtitle A—Duties and Functions of Department of Defense

**SEC. 901. STUDY OF ROLES AND AUTHORITIES OF THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.**

(a) STUDY REQUIRED.—The Secretary of Defense shall carry out a study of the roles and authorities of the Director of Defense Research and Engineering.

(b) CONTENT OF STUDY.—The study under subsection (a) shall include the following:

(1) An examination of the past and current roles and authorities of the Director of Defense Research and Engineering.

(2) An analysis to determine appropriate future roles and authorities for the Director, including an analysis of the following matters:

(A) The relationship of the Director to other senior science and technology and acquisition officials of the military departments and the Defense Agencies

(B) The relationship of the Director to the performance of the following functions:

(i) The planning, programming, and budgeting of the science and technology programs of the Department of Defense, including those of the military departments and the Defense Agencies.

(ii) The management of Department of Defense laboratories and technical centers, including the management of the Federal Government scientific and technical workforce for such laboratories and centers.

(iii) The promotion of the rapid transition of technologies to acquisition programs within the Department of Defense.

(iv) The promotion of the transfer of technologies into and from the commercial sector.

(v) The coordination of Department of Defense science and technology activities with organizations outside the Department of Defense, including other Federal Government agencies, international research organizations, industry, and academia.

(vi) The technical review of Department of Defense acquisition programs and policies.

(vii) The training and educational activities for the national scientific and technical workforce.

(viii) The development of science and technology policies and programs relating to the maintenance of the national technology and industrial base.

(ix) The development of new technologies in support of the transformation of the Armed Forces.

(3) An examination of the duties of the Director as the Chief Technology Officer of the Department of Defense as prescribed by Department of Defense Directive 5134.3, dated November 3, 2003, especially in comparison to the duties of similar positions in the Federal Government and industry.

(4) An examination of any other matter that the Secretary considers appropriate for the study.

(c) REPORT.—(1) Not later than February 1, 2006, 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 results of the study under this section.

(2) The report shall include recommendations regarding the appropriate roles and authorities that should be assigned and resources that should be provided to the Director of Defense Research and Engineering.

(d) ROLE OF DEFENSE SCIENCE BOARD IN STUDY AND REPORT.—The Secretary shall act through the Defense Science Board in carrying out the study under subsection (a) and in preparing the report under subsection (c).

**SEC. 902. CHANGE OF MEMBERSHIP OF SPECIFIED COUNCIL.**

(a) MEMBERSHIP OF COUNCIL UNDER SECTION 179.—Subsection (a) of section 179 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Under Secretary of Defense for Policy.".

(b) CONFORMING AND CLARIFYING AMENDMENTS.—Such subsection is further amended in the matter preceding paragraph (1)—

(1) by striking "Joint"; and

(2) by striking "composed of three members as follows:" and inserting "operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:".

(c) OTHER TECHNICAL AND CLARIFYING AMENDMENTS.—Such section is further amended as follows:

(1) Subsection (c)(3)(B) is amended by striking "appointed" and inserting "designated".

(2) Subsection (e) is amended by striking "In addition" and all that follows through "also" and inserting "The Council shall".

(3) Subsection (f) is amended by striking "Committee on" the first place it appears and all that follows through "Representatives" and inserting "congressional defense committees".

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

(1) Subsection (a) is amended by inserting "ESTABLISHMENT; MEMBERSHIP.—" after "(a)".

(2) Subsection (b) is amended by inserting "CHAIRMAN; MEETINGS.—" after "(b)".

(3) Subsection (c) is amended by inserting "STAFF AND ADMINISTRATIVE SERVICES; STAFF DIRECTOR.—" after "(c)".

(4) Subsection (d) is amended by inserting "RESPONSIBILITIES.—" after "(d)".

(5) Subsection (e) is amended by inserting "REPORT ON DIFFICULTIES RELATING TO SAFETY OR RELIABILITY.—" after "(e)".

(6) Subsection (f) is amended by inserting "ANNUAL REPORT.—" after "(f)".

(e) FURTHER CONFORMING AMENDMENTS.—Section 3212(e) of the National Nuclear Security Administration Act (50 U.S.C. 2402(e)) is amended—

(1) by striking "JOINT" in the subsection heading; and

(2) by striking "Joint".

## Subtitle B—Space Activities

**SEC. 911. SPACE POSTURE REVIEW.**

(a) REQUIREMENT FOR COMPREHENSIVE REVIEW.—In order to clarify the national security space policy and strategy of the United States for the near term, the Secretary of Defense shall conduct a comprehensive review of the space posture of the United States over the posture review period.

(b) ELEMENTS OF REVIEW.—The review conducted under subsection (a) shall include, for the posture review period, the following:

(1) The definition, policy, requirements, and objectives for each of the following:

(A) Space situational awareness.

(B) Space control.

(C) Space superiority, including defensive and offensive counterspace.

(D) Force enhancement and force application.

(E) Space-based intelligence, surveillance, and reconnaissance from space.

(F) Any other matter the Secretary considers relevant to understanding the United States space posture.

(2) Current and planned space acquisition programs that are in acquisition categories 1 and 2, including how each such program will address the policy, requirements, and objectives described under each of subparagraphs (A) through (F) of paragraph (1).

(3) Future space systems and technology development (other than those in development as of the date of the enactment of this Act) necessary to address the policy, requirements, and objectives described under each of subparagraphs (A) through (F) of paragraph (1).

(4) The relationship among—

(A) United States military space policy;

(B) national security space policy;

(C) national security space objectives; and

(D) arms control policy.

(5) Effect of United States military and national security space policy on the proliferation of weapons capable of targeting objects in space or objects on Earth from space.

(c) REPORTS.—(1) Not later than March 15, 2005, the Secretary of Defense shall submit to the congressional committees specified in paragraph (4) an interim report on the review conducted under subsection (a).

(2) Not later than December 31, 2005, the Secretary shall submit to those committees a final report on that review.

(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

(4) The reports under this subsection shall be submitted to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) JOINT UNDERTAKING WITH THE DIRECTOR OF CENTRAL INTELLIGENCE (OR SUCCESSOR).—The Secretary of Defense shall conduct the review under this section, and shall submit the reports under subsection (c), jointly with the Director of Central Intelligence (or any successor official who has responsibility for management of the intelligence community).

(e) POSTURE REVIEW PERIOD.—In this section, the term "posture review period" means the 10-year period beginning on the first day of the first month beginning more than one year after the date of the enactment of this Act.

**SEC. 912. PANEL ON THE FUTURE OF NATIONAL SECURITY SPACE LAUNCH.**

(a) IN GENERAL.—(1) The Secretary of Defense shall enter into a contract with a federally funded research and development center to establish a panel on the future national security space launch requirements of the United States, including means of meeting those requirements.

(2) The Secretary shall enter into the contract not later than 60 days after the date of the enactment of this Act.

(b) MEMBERSHIP AND ADMINISTRATION OF PANEL.—(1) The panel shall consist of individuals selected by the federally funded research and development center from among private citizens of the United States with knowledge and expertise in one or more of the following areas:

(A) Space launch operations.
(B) Space launch technologies.
(C) Satellite and satellite payloads.
(D) State and national launch complexes.
(E) Space launch economics.

(2) The federally funded research and development center shall establish appropriate procedures for the administration of the panel, including designation of the chairman of the panel from among its members.

(3) All panel members shall hold security clearances appropriate for the work of the panel.

(4) The panel shall convene its first meeting not later than 30 days after the date on which all members of the panel have been selected.

(c) DUTIES.—(1) The panel shall conduct a review and assessment of the future national security space launch requirements of the United States, including the means of meeting those requirements.

(2) The review and assessment shall take into account the following matters:

(A) Launch economics.
(B) Operational concepts and architectures.
(C) Launch technologies, including—
(i) reusable launch vehicles;
(ii) expendable launch vehicles;
(iii) low cost options; and
(iv) revolutionary approaches.
(D) Payloads, including the implications of payloads for launch requirements.
(E) Launch infrastructure.
(F) Launch industrial base.
(G) Relationships among military, civilian, and commercial launch requirements.

(3) The review and assessment shall address national security space launch requirements over each of the 5-year, 10-year, and 15-year periods beginning with 2005.

(d) INFORMATION FROM FEDERAL AND STATE AGENCIES.—(1) The panel may secure directly from the Department of Defense, from any other department or agency of the Federal Government, and any State government any information that the panel considers necessary to carry out its duties.

(2) The Secretary of Defense shall designate at least one senior civilian employee of the Department of Defense and at least one general or flag officer of an Armed Force to serve as liaison between the Department, the Armed Forces, and the panel.

(e) REPORT.—Not later than one year after the date of the first meeting of the panel under subsection (b)(4), the panel shall submit to the Secretary of Defense, the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House

of Representatives a report on the results of the review and assessment under subsection (c). The report shall include—

(1) the findings and conclusions of the panel on the future national security space launch requirements of the United States, including means of meeting such requirements;

(2) the assessment of panel, and any recommendations of the panel, on—

(A) launch operational concepts and architectures;

(B) launch technologies;

(C) launch enabling technologies; and

(D) priorities for funding; and

(3) the assessment of the panel as to the best means of meeting the future national security space launch requirements of the United States.

(f) TERMINATION.—The panel shall terminate 16 months after the date of the first meeting of the panel under subsection (b)(4).

(g) FUNDING.—Amounts authorized to be appropriated to the Department of Defense shall be available to the Secretary of Defense for purposes of the contract required by subsection (a).

**SEC. 913. OPERATIONALLY RESPONSIVE NATIONAL SECURITY SATELLITES.**

(a) PLANNING, PROGRAMMING, AND MANAGEMENT.—(1) Chapter 135 of title 10, United States Code, is amended by inserting after section 2273 the following new section:

**"§ 2273a. Operationally responsive national security payloads and buses: separate program element required**

"(a) REQUIREMENT FOR PROGRAM ELEMENT.—The Secretary of Defense shall ensure that, within budget program elements for space programs of the Department of Defense, there is a separate, dedicated program element for operationally responsive national security payloads and buses of the Department of Defense for space satellites and that programs and activities for such payloads and buses are planned, programmed, and budgeted for through that program element.

"(b) MANAGEMENT AUTHORITY.—The Secretary of Defense shall assign management authority for the program element required under subsection (a) to the Director of the Office of Force Transformation of the Department of Defense.

"(c) DEFINITION OF OPERATIONALLY RESPONSIVE.—In this section, the term 'operationally responsive', with respect to a national security payload and bus for a space satellite, means an experimental or operational payload and bus with a weight not in excess of 5,000 pounds that—

"(1) can be developed and acquired within 18 months after authority to proceed with development is granted; and

"(2) is responsive to requirements for capabilities at the operational and tactical levels of warfare.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2273 the following new item:

"2273a. Operationally responsive national security payloads and buses: separate program element required.".

(b) TIME FOR IMPLEMENTATION.—Subsection (a) of section 2273a of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 2005.

**SEC. 914. NONDISCLOSURE OF CERTAIN PRODUCTS OF COMMERCIAL SATELLITE OPERATIONS.**

(a) MANDATORY DISCLOSURE REQUIREMENTS INAPPLICABLE.—The requirements to make information available under section 552 of title 5, United States Code, shall not apply to land remote sensing information.

(b) LAND REMOTE SENSING INFORMATION DEFINED.—In this section, the term "land remote sensing information"—

(1) means any data that—

(A) are collected by land remote sensing; and

(B) are prohibited from sale to customers other than the United States Government and United States Government-approved customers for reasons of national security pursuant to the terms of an operating license issued pursuant to the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.); and

(2) includes any imagery and other product that is derived from such data and which is prohibited from sale to customers other than the United States Government and United States Government-approved customers for reasons of national security pursuant to the terms of an operating license described in paragraph (1)(B).

(c) STATE OR LOCAL GOVERNMENT DISCLOSURES.—Land remote sensing information provided by the head of a department or agency of the United States to a State, local, or tribal government may not be made available to the general public under any State, local, or tribal law relating to the disclosure of information or records.

(d) SAFEGUARDING INFORMATION.—The head of each department or agency of the United States having land remote sensing information within that department or agency or providing such information to a State, local, or tribal government shall take such actions, commensurate with the sensitivity of that information, as are necessary to protect that information from disclosure other than in accordance with this section and other applicable law.

(e) ADDITIONAL DEFINITION.—In this section, the term "land remote sensing" has the meaning given such term in section 3 of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5602).

(f) DISCLOSURE TO CONGRESS.—Nothing in this section shall be construed to authorize the withholding of information from the appropriate committees of Congress.

# Subtitle C—Intelligence-Related Matters

**SEC. 921. TWO-YEAR EXTENSION OF AUTHORITY OF THE SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES ABROAD.**

Section 431(a) of title 10, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2006".

**SEC. 922. PILOT PROGRAM ON CRYPTOLOGIC SERVICE TRAINING.**

(a) PROGRAM AUTHORIZED.—The Director of the National Security Agency may carry out a pilot program on cryptologic service training for the intelligence community.

(b) OBJECTIVE OF PROGRAM.—The objective of the pilot program is to increase the number of qualified entry-level language analysts

and intelligence analysts available to the National Security Agency and the other elements of the intelligence community through the directed preparation and recruitment of qualified entry-level language analysts and intelligence analysts who commit to a period of service or a career in the intelligence community.

(c) PROGRAM SCOPE.—The pilot program shall be national in scope.

(d) PROGRAM PARTICIPANTS.—(1) Subject to the provisions of this subsection, the Director shall select the participants in the pilot program from among individuals qualified to participate in the pilot program utilizing such procedures as the Director considers appropriate for purposes of the pilot program.

(2) Each individual who receives financial assistance under the pilot program shall perform one year of obligated service with the National Security Agency, or another element of the intelligence community approved by the Director, for each academic year for which such individual receives such financial assistance upon such individual's completion of post-secondary education.

(3) Each individual selected to participate in the pilot program shall be qualified for a security clearance appropriate for the individual under the pilot program.

(4) The total number of participants in the pilot program at any one time may not exceed 400 individuals.

(e) PROGRAM MANAGEMENT.—In carrying out the pilot program, the Director shall—

(1) identify individuals interested in working in the intelligence community, and committed to taking college-level courses that will better prepare them for a career in the intelligence community as a language analyst or intelligence analyst;

(2) provide each individual selected for participation in the pilot program—

(A) financial assistance for the pursuit of courses at institutions of higher education selected by the Director in fields of study that will qualify such individual for employment by an element of the intelligence community as a language analyst or intelligence analyst; and

(B) educational counseling on the selection of courses to be so pursued; and

(3) provide each individual so selected information on the opportunities available for employment in the intelligence community.

(f) DURATION OF PROGRAM.—(1) The Director shall terminate the pilot program not later than six years after the date of the enactment of this Act.

(2) The termination of the pilot program under paragraph (1) shall not prevent the Director from continuing to provide assistance, counseling, and information under subsection (e) to individuals who are participating in the pilot program on the date of termination of the pilot program throughout the academic year in progress as of that date.

## Subtitle D—Other Matters

### SEC. 931. STRATEGIC PLAN FOR DESTRUCTION OF LETHAL CHEMICAL AGENTS AND MUNITIONS STOCKPILE.

Subsection (d) of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), is amended to read as follows:

"(d) REQUIREMENT FOR STRATEGIC PLAN.—(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretary of the Army shall jointly prepare, and from time to time shall update as appropriate, a strategic plan for future activities for destruction of the United States' stockpile of lethal chemical agents and munitions.

"(2) The plan shall include, at a minimum, the following considerations:

"(A) Realistic budgeting for stockpile destruction and related support programs.

"(B) Contingency planning for foreseeable or anticipated problems.

"(C) A management approach and associated actions that address compliance with the obligations of the United States under the Chemical Weapons Convention treaty and that take full advantage of opportunities to accelerate destruction of the stockpile.

"(3) The Secretary of Defense shall each year submit to the Committee on the Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the strategic plan as most recently prepared and updated under paragraph (1). Such submission shall be made each year at the time of the submission to the Congress that year of the President's budget for the next fiscal year.".

### SEC. 932. SECRETARY OF DEFENSE CRITERIA FOR AND GUIDANCE ON IDENTIFICATION AND INTERNAL TRANSMISSION OF CRITICAL INFORMATION.

(a) CRITERIA FOR CRITICAL INFORMATION.—(1) The Secretary of Defense shall establish criteria for determining categories of critical information that should be made known expeditiously to senior civilian and military officials in the Department of Defense. Those categories should be limited to matters of extraordinary significance and strategic impact to which rapid access by those officials is essential to the successful accomplishment of the national security strategy or a major military mission. The Secretary may from time to time modify the list to suit the current strategic situation.

(2) The Secretary shall provide the criteria established under paragraph (1) to the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, the commanders of the unified and specified commands, the commanders of deployed forces, and such other elements of the Department of Defense as the Secretary considers necessary.

(b) MATTERS TO BE INCLUDED.—The criteria established under subsection (a) shall include, at a minimum, requirement for identification of the following:

(1) Any incident that may result in a contingency operation, based on the incident's nature, gravity, or potential for significant adverse consequences to United States citizens, military

personnel, interests, or assets, including an incident that could result in significant adverse publicity having a major strategic impact.

(2) Any event, development, or situation that could be reasonably assumed to escalate into an incident described in paragraph (1).

(3) Any deficiency or error in policy, standards, or training that could be reasonably assumed to have the effects described in paragraph (1).

(c) REQUIREMENTS FOR TRANSMISSION OF CRITICAL INFORMATION.—The criteria under subsection (a) shall include such requirements for transmission of such critical information to such senior civilian and military officials of the Department of Defense as the Secretary of Defense considers appropriate.

(d) TIME FOR ISSUANCE OF CRITERIA.—The Secretary of Defense shall establish the criteria required by subsection (a) not later than 120 days after the date of the enactment of this Act.

# TITLE X—GENERAL PROVISIONS

### Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. United States contribution to NATO common-funded budgets in fiscal year 2005.
Sec. 1003. Budget justification documents for operation and maintenance.
Sec. 1004. Licensing of intellectual property.
Sec. 1005. Repeal of funding restrictions concerning development of medical countermeasures against biological warfare threats.
Sec. 1006. Report on budgeting for exchange rates for foreign currency fluctuations.
Sec. 1007. Fiscal year 2004 transfer authority.
Sec. 1008. Clarification of fiscal year 2004 funding level for a National Institute of Standards and Technology account.
Sec. 1009. Notification of fund transfers from working-capital funds.
Sec. 1010. Charges for Defense Logistics Information Services materials.

### Subtitle B—Naval Vessels and Shipyards

Sec. 1011. Authority for award of contracts for ship dismantling on net-cost basis.
Sec. 1012. Use of proceeds from exchange and sale of obsolete navy service craft and boats.
Sec. 1013. Transfer of naval vessels to certain foreign recipients.
Sec. 1014. Independent study to assess cost effectiveness of the Navy ship construction program.
Sec. 1015. Limitation on disposal of obsolete naval vessel.

### Subtitle C—Counterdrug Matters

Sec. 1021. Use of funds for unified counterdrug and counterterrorism campaign in Colombia.
Sec. 1022. Sense of Congress and report regarding counter-drug efforts in Afghanistan.

### Subtitle D—Matters Relating to Museums and Commemorations

Sec. 1031. Recognition of the Liberty Memorial Museum, Kansas City, Missouri, as America's National World War I Museum.
Sec. 1032. Program to commemorate 60th anniversary of World War II.
Sec. 1033. Annual report on Department of Defense operation and financial support for military museums.

### Subtitle E—Reports

Sec. 1041. Quarterly detailed accounting for operations conducted as part of the Global War on Terrorism.
Sec. 1042. Report on post-major combat operations phase of Operation Iraqi Freedom.
Sec. 1043. Report on training provided to members of the Armed Forces to prepare for post-conflict operations.

Sec. 1044. Report on establishing National Centers of Excellence for unmanned aerial and ground vehicles.
Sec. 1045. Study of continued requirement for two-crew manning for ballistic missile submarines.
Sec. 1046. Report on Department of Defense programs for prepositioning of materiel and equipment.
Sec. 1047. Report on al Quaeda and associated groups in Latin America and the Caribbean.

**Subtitle F—Defense Against Terrorism and Other Domestic Security Matters**

Sec. 1051. Acceptance of communications equipment provided by local public safety agencies.
Sec. 1052. Determination and report on full-time airlift support for homeland defense operations.
Sec. 1053. Survivability of critical systems exposed to chemical or biological contamination.

**Subtitle G—Personnel Security Matters**

Sec. 1061. Use of National Driver Register for personnel security investigations and determinations.
Sec. 1062. Standards for disqualification from eligibility for Department of Defense security clearance.

**Subtitle H—Transportation-Related Matters**

Sec. 1071. Use of military aircraft to transport mail to and from overseas locations.
Sec. 1072. Reorganization and clarification of certain provisions relating to control and supervision of transportation within the Department of Defense.
Sec. 1073. Evaluation of procurement practices relating to transportation of security-sensitive cargo.

**Subtitle I—Other Matters**

Sec. 1081. Liability protection for Department of Defense volunteers working in maritime environment.
Sec. 1082. Sense of Congress concerning media coverage of the return to the United States of the remains of deceased members of the Armed Forces from overseas.
Sec. 1083. Transfer of historic F3A–1 Brewster Corsair aircraft.
Sec. 1084. Technical and clerical amendments.
Sec. 1085. Preservation of search and rescue capabilities of the Federal Government.
Sec. 1086. Acquisition of aerial firefighting equipment for National Interagency Fire Center.
Sec. 1087. Revision to requirements for recognition of institutions of higher education as Hispanic-serving institutions for purposes of certain grants and contracts.
Sec. 1088. Military extraterritorial jurisdiction over contractors supporting defense missions overseas.
Sec. 1089. Definition of United States for purposes of Federal crime of torture.
Sec. 1090. Energy savings performance contracts.
Sec. 1091. Sense of Congress and policy concerning persons detained by the United States.
Sec. 1092. Actions to prevent the abuse of detainees.
Sec. 1093. Reporting requirements.
Sec. 1094. Findings and sense of Congress concerning Army Specialist Joseph Darby.

## 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 2005 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 $3,500,000,000.

(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. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2005.**

(a) FISCAL YEAR 2005 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2005 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 2004, of funds appropriated for fiscal years before fiscal year 2005 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), $756,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $222,492,000 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. 1003. BUDGET JUSTIFICATION DOCUMENTS FOR OPERATION AND MAINTENANCE.**

(a) IN GENERAL.—(1) Chapter 9 of title 10, United States Code, is amended by adding after section 232, as added by section 214(a), the following new section:

**"§ 233. Operation and maintenance budget presentation**

"(a) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS.—In any case in which the amount requested in the President's budget for a fiscal year for a Department of Defense operation and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

"(b) NAVY FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be identified and distinguished.

"(c) DEFINITIONS.—In this section:

"(1) The term 'O&M justification documents' means Department of Defense budget justification documents with respect to accounts for operation and maintenance submitted to the congressional defense committees in support of the Department of Defense component of the President's budget for any fiscal year.

"(2) The term 'President's budget' means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

"(3) The term 'current year' means the fiscal year during which the President's budget is submitted in any year.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 232, as added by section 214(b), the following new item:

"233. Operation and maintenance budget presentation.".

(b) COMPONENTS OF LINE ITEMS FOR OTHER COSTS AND OTHER CONTRACTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the component elements of the line items identified as "Other Costs" and "Other Contracts" in the exhibit identified as "Summary of Price and Program Changes" in the budget justification materials submitted to those committees in support of the budget for fiscal year 2006.

**SEC. 1004. LICENSING OF INTELLECTUAL PROPERTY.**

(a) AUTHORITY.—Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2260. Licensing of intellectual property: retention of fees**

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may license trademarks, service

marks, certification marks, and collective marks owned or controlled by the Secretary concerned and may retain and expend fees received from such licensing in accordance with this section.

"(b) DESIGNATED MARKS.—The Secretary concerned shall designate the trademarks, service marks, certification marks, and collective marks regarding which the Secretary will exercise the authority to retain licensing fees under this section.

"(c) USE OF FEES.—The Secretary concerned shall use fees retained under this section for the following purposes:

"(1) For payment of the following costs incurred by the Secretary:

"(A) Costs of securing trademark registrations.

"(B) Costs of operating the licensing program under this section.

"(2) For morale, welfare, and recreation activities under the jurisdiction of the Secretary, to the extent (if any) that the total amount of the licensing fees available under this section for a fiscal year exceed the total amount needed for such fiscal year under paragraph (1).

"(d) AVAILABILITY.—Fees received in a fiscal year and retained under this section shall be available for obligation in such fiscal year and the following two fiscal years.

"(e) DEFINITIONS.—In this section, the terms 'trademark', 'service mark', 'certification mark', and 'collective mark' have the meanings given such terms in section 45 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946; 15 U.S.C. 1127).".

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

"2260. Licensing of intellectual property: retention of fees.".

**SEC. 1005. REPEAL OF FUNDING RESTRICTIONS CONCERNING DEVELOPMENT OF MEDICAL COUNTERMEASURES AGAINST BIOLOGICAL WARFARE THREATS.**

(a) REPEAL.—Section 2370a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking the item relating to that section.

**SEC. 1006. REPORT ON BUDGETING FOR EXCHANGE RATES FOR FOREIGN CURRENCY FLUCTUATIONS.**

(a) SECRETARY OF DEFENSE REPORT.—(1) Not later than December 1, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the foreign currency exchange rate projection used in annual Department of Defense budget presentations.

(2) In the report under paragraph (1), the Secretary shall—

(A) identify alternative approaches for selecting foreign currency exchange rates that would produce more realistic estimates of amounts required to be appropriated or otherwise made available for the Department of Defense to accommodate foreign currency exchange rate fluctuations;

(B) discuss the advantages and disadvantages of each approach identified pursuant to subparagraph (A); and

(C) identify the Secretary's preferred approach among the alternatives identified pursuant to subparagraph (A) and provide the Secretary's rationale for preferring that approach.

(3) In identifying alternative approaches pursuant to paragraph (2)(A), the Secretary shall examine—

(A) approaches used by other Federal departments and agencies; and

(B) the feasibility of using private economic forecasting.

(b) COMPTROLLER GENERAL REVIEW AND REPORT.—The Comptroller General shall review the report under subsection (a), including the basis for the Secretary's conclusions stated in the report, and shall submit, not later than January 15, 2005, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of that review.

**SEC. 1007. FISCAL YEAR 2004 TRANSFER AUTHORITY.**

Section 1001(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1582) is amended by striking "$2,500,000,000" and inserting "$2,800,000,000".

**SEC. 1008. CLARIFICATION OF FISCAL YEAR 2004 FUNDING LEVEL FOR A NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACCOUNT.**

For the purposes of applying sections 204 and 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (division B of Public Law 108–199) to matters in title II of such Act under the heading "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY" (118 Stat. 69), in the account under the heading "INDUSTRIAL TECHNOLOGY SERVICES", the Secretary of Commerce shall make all determinations based on the Industrial Technology Services funding level of $218,782,000 for reprogramming and transferring of funds for the Manufacturing Extension Partnership program and may submit such a reprogramming or transfer, as the case may be, to the appropriate committees within 30 days after the date of the enactment of this Act.

**SEC. 1009. NOTIFICATION OF FUND TRANSFERS FROM WORKING-CAPITAL FUNDS.**

Section 2208 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(r) NOTIFICATION OF TRANSFERS.—(1) Notwithstanding any authority provided in this section to transfer funds, the transfer of funds from a working-capital fund, including a transfer to another working-capital fund, shall not be made under such authority unless the Secretary of Defense submits, in advance, a notification of the proposed transfer to the congressional defense committees in accordance with customary procedures.

"(2) The amount of a transfer covered by a notification under paragraph (1) that is made in a fiscal year does not count toward any limitation on the total amount of transfers that may be made for that fiscal year under authority provided to the Secretary of Defense in a law authorizing appropriations for a fiscal year for military activities of the Department of Defense or a law making appropriations for the Department of Defense.".

**SEC. 1010. CHARGES FOR DEFENSE LOGISTICS INFORMATION SERVICES MATERIALS.**

(a) AUTHORITY.—Subchapter I of chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

### "§ 197. Defense Logistics Agency: fees charged for logistics information

"(a) AUTHORITY.—The Secretary of Defense may charge fees for providing information in the Federal Logistics Information System through Defense Logistics Information Services to a department or agency of the executive branch outside the Department of Defense, or to a State, a political subdivision of a State, or any person.

"(b) AMOUNT.—The fee or fees prescribed under subsection (a) shall be such amount or amounts as the Secretary of Defense determines appropriate for recovering the costs of providing information as described in such subsection.

"(c) RETENTION OF FEES.—Fees collected under this section shall be credited to the appropriation available for Defense Logistics Information Services for the fiscal year in which collected, shall be merged with other sums in such appropriation, and shall be available for the same purposes and period as the appropriation with which merged.

"(d) DEFENSE LOGISTICS INFORMATION SERVICES DEFINED.—In this section, the term 'Defense Logistics Information Services' means the organization within the Defense Logistics Agency that is known as Defense Logistics Information Services.".

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

"197. Defense Logistics Agency: fees charged for logistics information.".

## Subtitle B—Naval Vessels and Shipyards

**SEC. 1011. AUTHORITY FOR AWARD OF CONTRACTS FOR SHIP DISMANTLING ON NET-COST BASIS.**

(a) IN GENERAL.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7305 the following new section:

### "§ 7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis

"(a) AUTHORITY FOR NET-COST BASIS CONTRACTS.—When the Secretary of the Navy awards a contract for the dismantling of a vessel stricken from the Naval Vessel Register, the Secretary may award the contract on a net-cost basis.

"(b) RETENTION BY CONTRACTOR OF PROCEEDS OF SALE OF SCRAP AND REUSABLE ITEMS.—When the Secretary awards a contract on a net-cost basis under subsection (a), the Secretary shall provide in the contract that the contractor may retain the proceeds from the sale of scrap and reusable items removed from the vessel dismantled under the contract.

"(c) DEFINITIONS.—In this section:

"(1) The term 'net-cost basis', with respect to a contract for the dismantling of a vessel, means that the amount to be paid to the contractor under the contract for dismantling

and for removal and disposal of hazardous waste material is discounted by the offeror's estimate of the value of scrap and reusable items that the contractor will remove from the vessel during performance of the contract.

"(2) The term 'scrap' means personal property that has no value except for its basic material content.

"(3) The term 'reusable item' means a demilitarized component or a removable portion of a vessel or equipment that the Secretary of the Navy has identified as excess to the needs of the Navy but which has potential resale value on the open market.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7305 the following new item:

"7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis.".

**SEC. 1012. USE OF PROCEEDS FROM EXCHANGE AND SALE OF OBSOLETE NAVY SERVICE CRAFT AND BOATS.**

(a) COSTS OF PREPARATION FOR DISPOSAL.—(1) Chapter 633 of title 10, United States Code, is amended by inserting after section 7311 the following new section:

**"§ 7312. Service craft stricken from Naval Vessel Register; obsolete boats: use of proceeds from exchange or sale**

"(a) EXCHANGE OR SALE OF SIMILAR ITEMS.—When the Secretary of the Navy sells an obsolete service craft or an obsolete boat, or exchanges such a craft or boat in a transaction for which a similar craft or boat is acquired, the Secretary may retain the proceeds of the sale or the exchange allowance from the exchange, as the case may be, and apply the proceeds of sale or the exchange allowance for any of the following purposes:

"(1) For payment, in whole or in part, for a similar service craft or boat acquired as a replacement, as authorized by section 503 of title 40.

"(2) For reimbursement, to the extent practicable, of the appropriate accounts of the Navy for the full costs of preparation of such obsolete craft or boat for such sale or exchange.

"(3) For deposit to the special account established under subsection (b), to be available in accordance with that subsection.

"(b) SPECIAL ACCOUNT.—Amounts retained under subsection (a) that are not applied as provided in paragraph (1) or (2) of that subsection shall be deposited into a special account. Amounts in the account shall be available under subsection (c) without regard to fiscal year limitation. Amounts in the account that the Secretary of the Navy determines are not needed for the purpose stated in subsection (c) shall be transferred at least annually to the General Fund of the Treasury.

"(c) COSTS OF PREPARATION OF OBSOLETE SERVICE CRAFT AND BOATS FOR FUTURE SALE OR EXCHANGE.—The Secretary may use amounts in the account under subsection (b) for payment, in whole or in part, for the full costs of preparation of obsolete service craft and obsolete boats for future sale or exchange.

"(d) COSTS OF PREPARATION FOR SALE OR EXCHANGE.—In this section, the term 'full costs of preparation' means the full costs

(direct and indirect) incurred by the Navy in preparing an obsolete service craft or an obsolete boat for exchange or sale, including the cost of the following:

"(1) Towing.

"(2) Storage.

"(3) Defueling.

"(4) Removal and disposal of hazardous wastes.

"(5) Environmental surveys to determine the presence of regulated materials containing polychlorinated biphenyl (PCB) and, if such materials are found, the removal and disposal of such materials.

"(6) Other costs related to such preparation.

"(e) OBSOLETE SERVICE CRAFT.—For purposes of this section, an obsolete service craft is a service craft that has been stricken from the Naval Vessel Register.

"(f) INAPPLICABILITY OF ADVERTISING REQUIREMENT.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to sales of service craft and boats described in subsection (a).

"(g) REGULATIONS.—The Secretary of the Navy shall prescribe regulations for the purposes of this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7311 the following new item:

"7312. Service craft stricken from Naval Vessel Register; obsolete boats: use of proceeds from exchange or sale.".

(b) APPLICABILITY.—Section 7312 of title 10, United States Code, as added by subsection (a), shall apply with respect to amounts received on or after the date of the enactment of this Act and to amounts received before the date of the enactment of this Act and not obligated as of that date.

**SEC. 1013. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.**

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign recipients on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) CHILE.—To the Government of Chile, the SPRUANCE class destroyer USS O'BANNON (DD–987).

(2) PORTUGAL.—To the Government of Portugal, the OLIVER HAZARD PERRY class guided missile frigates GEORGE PHILIP (FFG–12) and SIDES (FFG–14).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) CHILE.—To the Government of Chile, the SPRUANCE class destroyer FLETCHER (DD–992).

(2) TAIWAN.—To the Taipei Economic and Cultural Representative Office of the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a))), the ANCHORAGE class dock landing ship ANCHORAGE (LSD–36).

(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 pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred to countries in any fiscal

year under section 516(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(g)).

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized under subsection (a) or (b) shall be charged to the recipient.

(e) 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.

(f) 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. 1014. INDEPENDENT STUDY TO ASSESS COST EFFECTIVENESS OF THE NAVY SHIP CONSTRUCTION PROGRAM.**

(a) STUDY.—The Secretary of Defense shall provide for a study of the cost effectiveness of the ship construction program of the Navy. The study shall be conducted by a group of industrial experts independent of the Department of Defense. The study shall examine both—

(1) a variety of approaches by which the Navy ship construction program could be made more efficient in the near term; and

(2) a variety of approaches by which, with a nationally integrated effort over the next decade, the United States shipbuilding industry might enhance its health and viability.

(b) NEAR-TERM IMPROVEMENTS IN EFFICIENCY.—With respect to the examination under subsection (a)(1) of approaches by which the Navy ship construction program could be made more efficient in the near term, the Secretary shall provide for the persons conducting the study to—

(1) determine the potential cost savings on an annual basis, with an estimate of return on investment, from implementation of each approach examined; and

(2) establish priorities for potential implementation of the approaches examined.

(c) UNITED STATES SHIPBUILDING INFRASTRUCTURE MODERNIZATION PLAN.—With respect to the examination under subsection (a)(2) of approaches by which the United States shipbuilding industry might enhance its health and viability through a nationally integrated effort over the next decade, the Secretary shall provide for the persons conducting the study to—

(1) propose a plan incorporating a variety of approaches that would modernize the United States shipbuilding infrastructure within the next decade, resulting in a healthier and more viable shipbuilding industrial base;

(2) establish priorities for potential implementation of the approaches examined; and

(3) estimate the resources required to implement each of the approaches examined.

(d) REPORT.—Not later than October 1, 2005, the Secretary of Defense shall submit a report to the congressional defense committees providing the results of the study under subsection

(a). The report shall include the matters specified in subsections (b) and (c).

**SEC. 1015. LIMITATION ON DISPOSAL OF OBSOLETE NAVAL VESSEL.**

The Secretary of the Navy may not dispose of the decommissioned destroyer ex-Edson (DD–946) before October 1, 2007, to an entity that is not a nonprofit organization unless the Secretary first determines that there is no nonprofit organization that meets the criteria for donation of that vessel under section 7306(a)(3) of title 10, United States Code.

## Subtitle C—Counterdrug Matters

**SEC. 1021. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.**

(a) AUTHORITY.—(1) In fiscal years 2005 and 2006, funds available to the Department of Defense to provide assistance to the Government of Colombia may be used by the Secretary of Defense to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8076 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 988).

(c) NUMERICAL LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL.—Notwithstanding section 3204(b) of the Emergency Supplemental Act, 2000 (Division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131), the number of United States personnel assigned to conduct activities in Colombia in connection with support of Plan Colombia under subsection (a) in fiscal years 2005 and 2006 shall be subject to the following limitations:

(1) The number of United States military personnel assigned for temporary or permanent duty in Colombia in connection with support of Plan Colombia may not exceed 800.

(2) The number of United States individual citizens retained as contractors in Colombia in connection with support of Plan Colombia who are funded by Federal funds may not exceed 600.

(d) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel, United States civilian employees, or United States civilian contractor personnel employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to

the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen, including any United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States.

(e) RELATION TO OTHER AUTHORITY.—The authority provided by subsection (a) is in addition to any other authority in law to provide assistance to the Government of Colombia.

(f) REPORT ON RELATIONSHIPS BETWEEN TERRORIST ORGANIZATIONS IN COLOMBIA AND FOREIGN GOVERNMENTS AND ORGANIZATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Defense and the Director of Central Intelligence, shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that describes—

(A) any relationships between foreign governments or organizations and organizations based in Colombia that have been designated as foreign terrorist organizations under United States law, including the provision of any direct or indirect assistance to such organizations; and

(B) United States policies that are designed to address such relationships.

(2) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 1022. SENSE OF CONGRESS AND REPORT REGARDING COUNTER-DRUG EFFORTS IN AFGHANISTAN.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should make the substantial reduction of illegal drug trafficking in Afghanistan a priority in the Global War on Terrorism;

(2) the Secretary of Defense, in coordination with the Secretary of State and the heads of other appropriate Federal agencies, should expand cooperation with the Government of Afghanistan and international organizations involved in counter-drug activities to assist in providing a secure environment for counter-drug personnel in Afghanistan; and

(3) the United States, in conjunction with the Government of Afghanistan and coalition partners, should undertake additional efforts to reduce illegal drug trafficking and related activities that provide financial support for terrorist organizations in Afghanistan and neighboring countries.

(b) REPORT REQUIRED.—(1) The Secretary of Defense and the Secretary of State shall jointly prepare a report that describes—

(A) the progress made towards substantially reducing poppy cultivation and heroin production capabilities in Afghanistan; and

(B) the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the Government of Afghanistan.

(2) The report required by this subsection shall be submitted to Congress not later than 120 days after the date of the enactment of this Act.

# Subtitle D—Matters Relating to Museums and Commemorations

**SEC. 1031. RECOGNITION OF THE LIBERTY MEMORIAL MUSEUM, KANSAS CITY, MISSOURI, AS AMERICA'S NATIONAL WORLD WAR I MUSEUM.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Liberty Memorial Museum in Kansas City, Missouri, was built in honor of those individuals who served in World War I in defense of liberty and the United States.

(2) The Liberty Memorial Association, the nonprofit organization that originally built the Liberty Memorial Museum, is responsible for the finances, operations, and collections management of the Liberty Memorial Museum.

(3) The Liberty Memorial Museum is the only public museum in the United States that exists for the exclusive purpose of interpreting the experiences of the United States and its allies in the World War I years (1914–1918), both on the battlefield and on the home front.

(4) The Liberty Memorial Museum project began after the 1918 Armistice through the efforts of a large-scale, grass-roots civic and fundraising effort by the citizens of the Kansas City metropolitan area, including veterans of World War I. After the conclusion of a national architectural design competition, ground was broken in 1921, construction began in 1923, and the Liberty Memorial Museum was opened to the public in 1926.

(5) In 1994, the Liberty Memorial Museum closed for a massive restoration and expansion project. The restored museum reopened to the public on Memorial Day in 2002 during a gala rededication ceremony.

(6) Exhibits prepared for the original museum buildings presaged the dramatic, underground expansion of core exhibition gallery space, with over 30,000 square feet of new interpretive and educational exhibits currently in development. The new exhibits, along with an expanded research library and archives, will more fully utilize the many thousands of historical objects, books, maps, posters, photographs, diaries, letters, and reminiscences of World War I participants that are preserved for posterity in the collections of the Liberty Memorial Museum. The new core exhibition is scheduled to open on Veterans Day in 2006.

(7) The City of Kansas City, the State of Missouri, and thousands of private donors and philanthropic foundations have contributed millions of dollars to first build and later restore the Liberty Memorial Museum. The Liberty Memorial Museum continues to receive the strong support of residents from the States of Missouri and Kansas and across the United States.

(8) Since its restoration and rededication in 2002, the Liberty Memorial Museum has attracted thousands of visitors from across the United States and many foreign countries.

(9) There remains a need to preserve in a museum setting evidence of the honor, courage, patriotism, and sacrifice of those Americans who offered their services and who gave their lives in defense of liberty during World War I, evidence of

the roles of women and African Americans during World War I, and evidence of other relevant subjects.

(10) The Liberty Memorial Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

(11) A great opportunity exists to use the invaluable resources of the Liberty Memorial Museum to teach the "Lessons of Liberty" to schoolchildren in the United States through on-site visits, classroom curriculum development, distance-learning activities, and other educational initiatives.

(12) The Liberty Memorial Museum should remain the foremost museum in the United States regarding the national experience in the World War I years, which people can visit to learn about World War I and where the history of this monumental struggle will be preserved so that current and future generations may understand the role played by the United States in the preservation and advancement of democracy, freedom, and liberty in the early 20th century.

(13) The work of the Liberty Memorial Museum to recognize and preserve the history of the Nation's sacrifices in World War I will take on added significance as the centennial observance of the war approaches.

(14) It is fitting and proper to refer to the Liberty Memorial Museum as "America's National World War I Museum".

(b) CONGRESSIONAL RECOGNITION.—Congress—

(1) recognizes the Liberty Memorial Museum in Kansas City, Missouri, including the museum's future and expanded exhibits, collections, library, archives, and educational programs, as "America's National World War I Museum";

(2) recognizes that the continuing collection, preservation, and interpretation of the historical objects and other historical materials held by the Liberty Memorial Museum will enhance the knowledge and understanding of the experiences of the United States and its allies in the World War I years (1914–1918), both on the battlefield and on the home front;

(3) commends the ongoing development and visibility of the "Lessons of Liberty" educational outreach programs prepared by the Liberty Memorial Museum for teachers and students throughout the United States; and

(4) encourages present generations of Americans to understand the magnitude of World War I, how it shaped the United States, other countries, and later world events, and how the sacrifices made by Americans then helped preserve liberty, democracy, and other founding principles of the United States for generations to come.

**SEC. 1032. PROGRAM TO COMMEMORATE 60TH ANNIVERSARY OF WORLD WAR II.**

(a) IN GENERAL.—For fiscal year 2005, the Secretary of Defense may conduct a program—

(1) to commemorate the 60th anniversary of World War II; and

(2) to coordinate, support, and facilitate other such commemoration programs and activities of the Federal Government, State and local governments, and other persons.

(b) PROGRAM ACTIVITIES.—The program referred to in subsection (a) may include activities and ceremonies—

(1) to provide the people of the United States with a clear understanding and appreciation of the lessons and history of World War II;

(2) to thank and honor veterans of World War II and their families;

(3) to pay tribute to the sacrifices and contributions made on the home front by the people of the United States;

(4) to foster an awareness in the people of the United States that World War II was the central event of the 20th century that defined the postwar world;

(5) to highlight advances in technology, science, and medicine related to military research conducted during World War II;

(6) to inform wartime and postwar generations of the contributions of the Armed Forces of the United States to the United States;

(7) to recognize the contributions and sacrifices made by World War II allies of the United States; and

(8) to highlight the role of the Armed Forces of the United States, then and now, in maintaining world peace through strength.

(c) ESTABLISHMENT OF ACCOUNT.—(1) There is established in the Treasury of the United States an account to be known as the "Department of Defense 60th Anniversary of World War II Commemoration Account" which shall be administered by the Secretary as a single account.

(2) There shall be deposited in the account, from amounts appropriated to the Department of Defense for operation and maintenance of Defense Agencies, such amounts as the Secretary considers appropriate to conduct the program referred to in subsection (a).

(3) The Secretary may use the funds in the account established in paragraph (1) only for the purpose of conducting the program referred to in subsection (a).

(4) Not later than 60 days after the termination of the authority of the Secretary to conduct the program referred to in subsection (a), the Secretary shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing an accounting of all the funds deposited into and expended from the account or otherwise expended under this section, and of any amount remaining in the account. Unobligated funds which remain in the account after termination of the authority of the Secretary under this section shall be held in the account until transferred by law after the Committees receive the report.

(d) ACCEPTANCE OF VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept from any person voluntary services to be provided in furtherance of the program referred to in subsection (a).

(2) A person providing voluntary services under this subsection shall be considered to be an employee for the purposes of chapter 81 of title 5, United States Code, relating to compensation for

work-related injuries. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purposes by reason of the provision of such service.

(3) The Secretary may reimburse a person providing voluntary services under this subsection for incidental expenses incurred by such person in providing such services. The Secretary shall determine which expenses are eligible for reimbursement under this paragraph.

**SEC. 1033. ANNUAL REPORT ON DEPARTMENT OF DEFENSE OPERATION AND FINANCIAL SUPPORT FOR MILITARY MUSEUMS.**

(a) REPORT REQUIRED.—Chapter 23 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 489. Annual report on Department of Defense operation and financial support for military museums**

"(a) REPORT REQUIRED.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report identifying all military museums that, during the most recently completed fiscal year—

"(1) were operated by the Secretary of Defense or the Secretary of a military department;

"(2) were otherwise supported using funds appropriated to the Department of Defense; or

"(3) were located on property under the jurisdiction of the Department of Defense, although neither operated by the Department of Defense nor supported using funds appropriated to the Department of Defense.

"(b) INFORMATION ON INDIVIDUAL MUSEUMS.—For each museum identified in a report under this section, the Secretary of Defense shall include in the report the following:

"(1) The purpose and functions of the museum and the justification for the museum.

"(2) A description of the facilities dedicated to the museum, including the location, size, and type of facilities and whether the facilities are included or eligible for inclusion on the National Register of Historic Places.

"(3) An itemized listing of the funds appropriated to the Department of Defense that were obligated to support the museum during the fiscal year covered by the report and a description of the process used to determine the annual allocation of Department of Defense funds for the museum.

"(4) An itemized listing of any other Federal funds, funds from a nonappropriated fund instrumentality account of the Department of Defense, and non-Federal funds obligated to support the museum.

"(5) The management structure of the museum, including identification of the persons responsible for preparing the budget for the museum and for making acquisition and management decisions for the museum.

"(6) The number of civilian employees of the Department of Defense and members of the armed forces who served full-

time or part-time at the museum and their role in the management structure of the museum.

"(c) INFORMATION ON SUPPORT PRIORITIES.—Each report under this section shall also include a separate description of the procedures used by the Secretary of Defense, in the case of museums identified in the report that are operated or supported by the Secretary of Defense, and the Secretary of a military department, in the case of museums identified in the report that are operated or supported by that Secretary, to prioritize funding and personnel support to the museums. The Secretary of Defense shall include a description of any such procedures applicable to the entire Department of Defense.".

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

"489. Annual report on Department of Defense operation and financial support for military museums.".

## Subtitle E—Reports

### SEC. 1041. QUARTERLY DETAILED ACCOUNTING FOR OPERATIONS CONDUCTED AS PART OF THE GLOBAL WAR ON TERRORISM.

(a) QUARTERLY ACCOUNTING.—Not later than 45 days after the end of each quarter of a year, the Secretary of Defense shall submit to the congressional defense committees, for each operation specified in subsection (b)—

(1) a full accounting of all costs incurred for such operation during such quarter and all amounts expended during such quarter for such operation; and

(2) a description of the purposes for which those costs were incurred and those amounts were expended.

(b) OPERATIONS COVERED.—The operations referred to in subsection (a) are the following:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) Operation Noble Eagle.

(4) Any other operation that the President designates as being an operation of the Global War on Terrorism.

(c) REQUIREMENT FOR COMPREHENSIVENESS.—For the purpose of providing a full and complete accounting of the costs and expenditures under subsection (a) for an operation specified in subsection (b), the Secretary shall account in the quarterly submission under subsection (a) for all costs and expenditures that are reasonably attributable to that operation, including personnel costs.

### SEC. 1042. REPORT ON POST-MAJOR COMBAT OPERATIONS PHASE OF OPERATION IRAQI FREEDOM.

(a) REPORT REQUIRED.—(1) Not later than June 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report on the conduct of military operations during the post-major combat operations phase of Operation Iraqi Freedom.

(2) The report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, and such other officials as the Secretary considers appropriate.

(b) CONTENT.—(1) The report shall include a discussion of the matters described in paragraph (2), with a particular emphasis on accomplishments and shortcomings and on near-term and long-term corrective actions to address such shortcomings.

(2) The matters to be discussed in the report are as follows:

(A) The military and political objectives of the international coalition conducting the post-major combat operations phase of Operation Iraqi Freedom, and the military strategy selected to achieve such objectives, together with an assessment of the execution of the military strategy.

(B) The mobilization process for the reserve components of the Armed Forces, including the timeliness of notification, training and certification, and subsequent demobilization.

(C) The use and performance of major items of United States military equipment, weapon systems, and munitions (including non-lethal weapons and munitions, items classified under special access procedures, and items drawn from prepositioned stocks) and any expected effects of the experience with the use and performance of such items on the doctrinal and tactical employment of such items and on plans for continuing the acquisition of such items.

(D) Any additional requirements for military equipment, weapon systems, munitions, force structure, or other capability identified during the post-major combat operations phase of Operation Iraqi Freedom, including changes in type or quantity for future operations.

(E) The effectiveness of joint air operations, together with an assessment of the effectiveness of—

(i) the employment of close air support; and

(ii) attack helicopter operations.

(F) The use of special operations forces, including operational and intelligence uses.

(G) The scope of logistics support, including support to and from other nations and from international organizations and organizations and individuals from the private sector in Iraq.

(H) The incidents of accidental fratricide, including a discussion of the effectiveness of the tracking of friendly forces and the use of the combat identification systems in mitigating friendly fire incidents.

(I) The adequacy of spectrum and bandwidth to transmit information to operational forces and assets, including unmanned aerial vehicles, ground vehicles, and individual soldiers.

(J) The effectiveness of strategic, operational, and tactical information operations, including psychological operations and assets, organization, and doctrine related to civil affairs, in achieving established objectives, together with a description of technological and other restrictions on the use of information operations capabilities.

(K) The readiness of the reserve component forces used in the post-major combat operations phase of Operation Iraqi Freedom, including an assessment of the success of the reserve component forces in accomplishing their missions.

(L) The adequacy of intelligence support during the post-major combat operations phase of Operation Iraqi Freedom,

including the adequacy of such support in searches for weapons of mass destruction.

(M) The rapid insertion and integration, if any, of developmental but mission-essential equipment, organizations, or procedures during the post-major combat operations phase of Operation Iraqi Freedom.

(N) A description of the coordination, communication, and unity of effort between the Armed Forces, the Coalition Provisional Authority, other United States government agencies and organizations, nongovernmental organizations, and political, security, and nongovernmental organizations of Iraq, including an assessment of the effectiveness of such efforts.

(O) The adequacy of training for military units once deployed to the area of operations of the United States Central Command, including training for changes in unit mission and continuation training for high-intensity conflict missions.

(P) An estimate of the funding required to return or replace equipment used through the period covered by the report in Operation Iraqi Freedom, including equipment in prepositioned stocks, to mission-ready condition.

(Q) A description of military civil affairs and reconstruction efforts, including efforts through the Commanders Emergency Response Program, and an assessment of the effectiveness of such efforts and programs.

(R) The adequacy of the requirements determination and acquisition processes, acquisition, and distribution of force protection equipment, including personal gear, vehicles, helicopters, and defense devices.

(S) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes, and the probable effects that an implementation of those changes would have on current visions, goals, and plans for transformation of the Armed Forces or the Department of Defense.

(T) The planning for and implementation of morale, welfare, and recreation programs for deployed forces and support to dependents, including rest and recuperation programs and personal communication benefits such as telephone, mail, and email services, including an assessment of the effectiveness of such programs.

(U) An analysis of force rotation plans, including individual personnel and unit rotations, differing deployment lengths, and in-theater equipment repair and leave behinds.

(V) The organization of United States Central Command to conduct post-conflict operations and lessons for other combatant commands to conduct other such operations in the future.

(c) FORM OF REPORT.—The report shall be submitted in unclassified form, but may include a classified annex.

(d) POST-MAJOR COMBAT OPERATIONS PHASE OF OPERATION IRAQI FREEDOM DEFINED.—In this section, the term "post-major combat operations phase of Operation Iraqi Freedom" means the period of Operation Iraqi Freedom beginning on May 2, 2003, and ending on December 31, 2004.

**SEC. 1043. REPORT ON TRAINING PROVIDED TO MEMBERS OF THE ARMED FORCES TO PREPARE FOR POST-CONFLICT OPERATIONS.**

(a) STUDY ON TRAINING.—The Secretary of Defense shall conduct a study to determine the extent to which members of the Armed Forces assigned to duty in support of contingency operations receive training in preparation for post-conflict operations and to evaluate the quality of such training.

(b) MATTERS TO BE INCLUDED IN STUDY.—As part of the study under subsection (a), the Secretary shall specifically evaluate the following:

(1) The doctrine, training, and leader-development system necessary to enable members of the Armed Forces to successfully operate in post-conflict operations.

(2) The adequacy of the curricula at military educational facilities to ensure that the Armed Forces has a cadre of members skilled in post-conflict duties, including a familiarity with applicable foreign languages and foreign cultures.

(3) The training time and resources available to members and units of the Armed Forces to develop awareness about ethnic backgrounds, religious beliefs, and political structures of the people living in areas in which the Armed Forces operate and areas in which post-conflict operations are likely to occur.

(4) The adequacy of training transformation to emphasize post-conflict operations, including interagency coordination in support of commanders of combatant commands.

(c) REPORT ON STUDY.—Not later than May 1, 2005, 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 result of the study conducted under this section.

**SEC. 1044. REPORT ON ESTABLISHING NATIONAL CENTERS OF EXCELLENCE FOR UNMANNED AERIAL AND GROUND VEHICLES.**

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the need for one or more national centers of excellence for unmanned aerial and ground vehicles.

(b) GOAL OF CENTERS.—The goal of the centers covered by the report is to promote interservice cooperation and coordination in the following areas:

(1) Development of joint doctrine for the organization, training, and use of unmanned aerial and ground vehicles.

(2) Joint research, development, test, and evaluation, and joint procurement of unmanned aerial and ground vehicles.

(3) Identification and coordination, in conjunction with the private sector and academia, of the future development of unmanned aerial and ground vehicles.

(4) Monitoring of the development and utilization of unmanned aerial and ground vehicles in other nations for both military and non-military purposes.

(5) The providing of joint training and professional development opportunities in the use and operation of unmanned aerial and ground vehicles to military personnel of all ranks and levels of responsibility.

(c) REPORT REQUIREMENTS.—The report shall include, at a minimum, the following:

(1) A list of facilities at which the Department of Defense currently conducts or plans to conduct research, development, and testing activities on unmanned aerial and ground vehicles.

(2) A list of facilities at which the Department of Defense currently deploys or has committed to deploying unmanned aerial or ground vehicles.

(3) The extent to which existing facilities described in paragraphs (1) and (2) have sufficient unused capacity and expertise to research, develop, test, and deploy the current and next generations of unmanned aerial and ground vehicles and to provide for the development of doctrine on the use and training of operators of such vehicles.

(4) The extent to which efficiencies with respect to research, development, testing, and deployment of existing or future unmanned aerial and ground vehicles can be achieved through consolidation at one or more national centers of excellence for unmanned aerial and ground vehicles.

(5) A list of potential locations for the national centers of excellence under this section.

(d) CONSIDERATIONS.—In determining the potential locations for the national centers of excellence under this section, the Secretary of Defense shall take into consideration existing military facilities that have—

(1) a workforce of skilled personnel;

(2) existing capacity of runways and other facilities to accommodate the research, development, testing, and deployment of current and future unmanned aerial vehicles; and

(3) minimal restrictions on the research, development, testing, and deployment of unmanned aerial vehicles resulting from proximity to large population centers or airspace heavily utilized by commercial flights.

**SEC. 1045. STUDY OF CONTINUED REQUIREMENT FOR TWO-CREW MANNING FOR BALLISTIC MISSILE SUBMARINES.**

(a) STUDY AND DETERMINATION.—The Secretary of Defense shall conduct a study of whether the practice of using two alternating crews (referred to as the "Gold Crew" and the "Blue Crew") for manning of ballistic missile submarines (SSBNs) continues to be justified under the changed circumstances since the end of the Cold War and, based on that study, shall make a determination of whether that two-crew manning practice should be continued or should be modified or terminated.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing notice of the Secretary's determination under subsection (a) and the reasons for that determination.

**SEC. 1046. REPORT ON DEPARTMENT OF DEFENSE PROGRAMS FOR PREPOSITIONING OF MATERIEL AND EQUIPMENT.**

(a) SECRETARY OF DEFENSE ASSESSMENT AND REPORT.—(1) The Secretary of Defense shall conduct an assessment of the programs of the Armed Forces for the prepositioning of materiel and equipment. Such assessment shall focus on how those programs will support the goal of the Secretary to have the capability, from the onset of a contingency situation, to—

(A) deploy forces to a distant theater within 10 days;

(B) defeat an enemy within 30 days; and

(C) be ready for an additional conflict within another 30 days.

(2) The Secretary shall submit to Congress a report on such assessment not later than October 1, 2005.

(b) MATTERS TO BE INCLUDED.—The assessment under subsection (a) shall include the following:

(1) A review of the prepositioning of materiel and equipment used in Operation Iraqi Freedom and Operation Enduring Freedom, including identification of challenges and potential solutions.

(2) A description of changes to doctrine, strategy, and transportation plans that could be necessary to support the goal of the Secretary described in subsection (a).

(3) A description of modifications to prepositioning programs that could be required in order to incorporate modularity concepts, future force structure changes, and sea-basing concepts.

(4) A discussion of joint operations and training that support force projection requirements, including—

(A) theater opening requirements at potential aerial and sea ports of debarkation;

(B) joint force reception capabilities;

(C) joint theater distribution operations; and

(D) use of joint prepositioned stocks, materiel, and systems.

**SEC. 1047 REPORT ON AL QAEDA AND ASSOCIATED GROUPS IN LATIN AMERICA AND THE CARIBBEAN.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the Committees on Armed Services of the Senate and House of Representatives a report on the activities of al Qaeda and associated groups in Latin America and the Caribbean, including—

(1) an assessment of the extent to which such groups have established a presence in the area;

(2) a description of the activities of such groups in the area, including fundraising, money laundering, narcotrafficking, and associations with criminal groups;

(3) an assessment of the threat posed by such groups to the peace and stability of the nations in the area and to United States interests; and

(4) a description of United States policies intended to deal with such a threat.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may include a classified annex.

# Subtitle F—Defense Against Terrorism and Other Domestic Security Matters

**SEC. 1051. ACCEPTANCE OF COMMUNICATIONS EQUIPMENT PROVIDED BY LOCAL PUBLIC SAFETY AGENCIES.**

(a) AUTHORITY.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2613. Emergency communications equipment: acceptance from local public safety agencies for temporary use related to disasters**

"(a) AUTHORITY TO ACCEPT EQUIPMENT.—(1) Subject to subsection (c), the Secretary concerned—

"(1) may accept communications equipment for use in coordinating joint response and recovery operations with public safety agencies in the event of a disaster; and

"(2) may accept services related to the operation and maintenance of such equipment.

"(b) REGULATIONS.—The authority under subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.

"(c) LIMITATIONS.—(1) Equipment may be accepted under subsection (a)(1) only to the extent that communications equipment under the control of the Secretary concerned at the potential disaster response site is inadequate to meet military requirements for communicating with public safety agencies during the period of response to the disaster.

"(2) Services may be accepted under subsection (a)(2) related to the operation and maintenance of communications equipment only to the extent that the necessary capabilities are not available to the military commander having custody of the equipment.

"(c) LIABILITY.—A person providing services accepted under this section may not be considered, by reason of the provision of such services, to be an officer, employee, or agent of the United States for any purpose.".

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

"2613. Emergency communications equipment: acceptance from local public safety agencies for temporary use related to disasters.".

**SEC. 1052. DETERMINATION AND REPORT ON FULL-TIME AIRLIFT SUPPORT FOR HOMELAND DEFENSE OPERATIONS.**

(a) DETERMINATION REQUIRED.—(1) The Secretary of Defense shall determine the feasibility and advisability of dedicating an airlift capability of the Armed Forces to the support of homeland defense operations, including operations in support of contingent requirements for transportation of any of the following in response to a disaster:

(A) Weapons of Mass Destruction Civil Support Teams.

(B) National Guard Chemical, Biological, Radiological, Nuclear, High Explosive Enhanced Response Force Packages.

(C) Air Force expeditionary medical teams.

(D) Department of Energy emergency response teams.

(2) In making the determination under paragraph (1), the Secretary shall take into consideration the results of the study required under subsection (b).

(b) REQUIREMENT FOR STUDY AND PLAN.—(1) The Secretary of Defense shall conduct a study of the plans and capabilities of the Department of Defense for meeting contingent requirements for transporting teams and packages specified in subsection (a)(1) in response to disasters.

(2) The Secretary shall prepare a plan for resolving any deficiencies in the plans and capabilities for meeting the transportation requirements described in paragraph (1).

(3) The Secretary of Defense shall require the commander of the United States Northern Command and the commander of the United States Transportation Command to carry out jointly the study required under paragraph (1) and to prepare jointly the plan required under paragraph (2).

(c) REPORT.—Not later than April 1, 2005, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study under subsection (b). The report shall include the following matters:

(1) The Secretary's determination under subsection (a).

(2) An assessment and discussion of the adequacy of existing plans and capabilities of the Department of Defense for meeting the transportation requirements described in subsection (b)(1).

(3) The plan required under subsection (b)(2).

(d) DEFINITION.—In this section, the term "Weapons of Mass Destruction Civil Support Team" has the meaning given that term in section 305b(e) of title 37, United States Code.

**SEC. 1053. SURVIVABILITY OF CRITICAL SYSTEMS EXPOSED TO CHEMICAL OR BIOLOGICAL CONTAMINATION.**

(a) REQUIREMENT FOR IMPLEMENTATION PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan, for implementation by the Department of Defense, that sets forth a systematic approach for ensuring the survivability of defense critical systems upon contamination of any such system by chemical or biological agents.

(b) CONTENT.—At a minimum, the plan under subsection (a) shall include the following:

(1) Policies for ensuring that the survivability of defense critical systems in the event of contamination by chemical or biological agents is adequately addressed throughout the Department of Defense.

(2) A systematic process for identifying those systems which are defense critical systems.

(3) Specific testing procedures to be used during the design and development of new defense critical systems.

(4) A centralized database that—

(A) contains comprehensive information on the effects of chemical and biological agents and decontaminants on materials used in defense critical systems; and

(B) is easily accessible to personnel who have duties to ensure the survivability of defense critical systems upon contamination of such systems by chemical and biological agents.

(c) DEFENSE CRITICAL SYSTEM DEFINED.—In this section, the term "defense critical system" means a Department of Defense system that, as determined by the Secretary of Defense, is vital to an essential defense mission.

## Subtitle G—Personnel Security Matters

**SEC. 1061. USE OF NATIONAL DRIVER REGISTER FOR PERSONNEL SECURITY INVESTIGATIONS AND DETERMINATIONS.**

Section 30305(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (9) through (11) as paragraphs (10) through (12), respectively; and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) An individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive order, may request the chief driver licensing official of a State to provide information about the individual pursuant to subsection (a) of this section to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information or for Federal employment in a position requiring access to national security information. A Federal department or agency that receives information about an individual under the preceding sentence may use such information only for purposes of the authorized investigation and only in accordance with applicable law.".

**SEC. 1062. STANDARDS FOR DISQUALIFICATION FROM ELIGIBILITY FOR DEPARTMENT OF DEFENSE SECURITY CLEARANCE.**

(a) DISQUALIFIED PERSONS.—Subsection (c)(1) of section 986 of title 10, United States Code, is amended—

(1) by striking "and" and inserting ", was"; and

(2) by inserting before the period at the end the following: ", and was incarcerated as a result of that sentence for not less than one year".

(b) WAIVER AUTHORITY.—Subsection (d) of such section is amended to read as follows:

"(d) WAIVER AUTHORITY.—In a meritorious case, an exception to the prohibition in subsection (a) may be authorized for a person described in paragraph (1) or (4) of subsection (c) if there are mitigating factors. Any such waiver may be authorized only in accordance with standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President.".

## Subtitle H—Transportation-Related Matters

**SEC. 1071. USE OF MILITARY AIRCRAFT TO TRANSPORT MAIL TO AND FROM OVERSEAS LOCATIONS.**

(a) AUTHORITY FOR USE OF MILITARY AIRCRAFT.—Section 3401 of title 39, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1)(A), by striking "title 49," and inserting "title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,"; and

(B) in the sentence following paragraph (3), by striking "carriers" each place it appears and inserting "carriers and military aircraft"; and

(2) in subsection (c)—

(A) in the first sentence, by striking "title 49," and inserting "title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,"; and

(B) in the second sentence—

(i) by inserting "and military aircraft" after "carriers" the first place it appears; and

(ii) by striking "by air carriers other than scheduled United States air carriers" and inserting "by other than scheduled United States air carriers and military aircraft".

(b) DEFINITION.—Such section is further amended by adding at the end the following new subsection:

"(g) In this section:

"(1) The term 'military aircraft' means an aircraft owned, operated, or chartered by the Department of Defense.

"(2) The term 'United States air carrier' has the meaning given the term 'air carrier' in section 40102 of title 49.".

**SEC. 1072. REORGANIZATION AND CLARIFICATION OF CERTAIN PROVISIONS RELATING TO CONTROL AND SUPERVISION OF TRANSPORTATION WITHIN THE DEPARTMENT OF DEFENSE.**

(a) TRANSFER OF CERTAIN TRANSPORTATION AUTHORITIES.—Sections 4744, 4745, 4746, and 4747 of title 10, United States Code, are transferred to chapter 157 of such title, inserted (in that order) at the end of such chapter, and redesignated as sections 2648, 2649, 2650, and 2651, respectively.

(b) CLARIFICATION OF APPLICABILITY OF TRANSFERRED AUTHORITIES THROUGHOUT THE DEPARTMENT OF DEFENSE.—(1) Section 2648 of such title, as transferred and redesignated by subsection (a), is amended—

(A) by striking "Secretary of the Army" in the matter preceding paragraph (1) and inserting "Secretary of Defense";

(B) by striking "Army transport agencies" in the matter preceding paragraph (1) and all that follows through "military transport agency of";

(C) by striking paragraphs (1), (2), and (3);

(D) by redesignating paragraph (4), (5), (6), and (7) as paragraphs (1), (2), (3), and (4), respectively;

(E) by redesignating paragraph (8) as paragraph (5) and in that paragraph striking "persons described in clauses (1), (2), (4), (5), and (7)" and inserting "members of the armed forces, officers and employees of the Department of Defense or the Coast Guard, and persons described in paragraphs (1), (2), and (4)"; and

(F) by striking "clause (7) or (8)" in the last sentence and inserting "paragraph (4) or (5)".

(2) Section 2649 of such title, as transferred and redesignated by subsection (a), is amended—

(A) by striking the section heading and inserting the following:

**"§ 2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels";**

(B) by striking "(1) on vessels" and all that follows through "Department of the Army";

(C) by striking "any transport agency of"; and

(D) by striking "Secretary of the Army" and all that follows through "be transported" and inserting "Secretary of Defense, be transported".

(3) Section 2650 of such title, as transferred and redesignated by subsection (a), is amended—

(A) in the matter preceding paragraph (1), by striking "Army transport agencies" and all that follows through "military transport agency of";

(B) in paragraph (1), by striking "Secretary of the Army" and inserting "Secretary of Defense"; and

(C) in paragraph (4), by striking "by air—" and all that follows through "the transportation cannot" and inserting "by air, the transportation cannot".

(4) Section 2651 of such title, as transferred and redesignated by subsection (a), is amended by striking "Army transport agencies" and all that follows and inserting "the Department of Defense, under regulations and at rates to be prescribed by the Secretary of Defense.".

(c) REPEAL OF SUPERSEDED AND OBSOLETE PROVISIONS.—The following sections of such title are repealed: sections 4741, 4743, 9741, 9743, and 9746.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 157 of such title is amended by adding at the end the following new items:

"2648. Persons and supplies: sea transportation.

"2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels.

"2650. Civilian personnel in Alaska.

"2651. Passengers and merchandise to Guam: sea transport.".

(2) The table of sections at the beginning of chapter 447 of such title is amended by striking the items relating to sections 4741, 4743, 4744, 4745, 4746, and 4747.

(3) The table of sections at the beginning of chapter 947 of such title is amended by striking the items relating to sections 9741, 9743, and 9746.

**SEC. 1073. EVALUATION OF PROCUREMENT PRACTICES RELATING TO TRANSPORTATION OF SECURITY-SENSITIVE CARGO.**

(a) EVALUATION REQUIREMENT.—The Secretary of Defense shall evaluate the procurement practices of the Department of Defense in the award of service contracts for domestic freight transportation for security-sensitive cargo (such as arms, ammunitions, explosives, and classified material) to determine whether such practices are in the best interests of the Department of Defense.

(b) REPORT.—Not later than January 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the results of the evaluation conducted under subsection (a).

# Subtitle I—Other Matters

**SEC. 1081. LIABILITY PROTECTION FOR DEPARTMENT OF DEFENSE VOLUNTEERS WORKING IN MARITIME ENVIRONMENT.**

Section 1588(d)(1)(B) of title 10, United States Code, is amended by inserting before the period at the end the following: "and the Act of March 9, 1920, commonly known as the 'Suits in Admiralty Act' (41 Stat. 525; 46 U.S.C. App. 741 et seq.) and the Act of March 3, 1925, commonly known as the 'Public Vessels Act' (43 Stat. 1112; 46 U.S.C. App. 781 et seq.) (relating to claims for damages or loss on navigable waters)".

**SEC. 1082. SENSE OF CONGRESS CONCERNING MEDIA COVERAGE OF THE RETURN TO THE UNITED STATES OF THE REMAINS OF DECEASED MEMBERS OF THE ARMED FORCES FROM OVERSEAS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense, since 1991, has relied on a policy of no media coverage of the transfers of the remains of deceased members of the Armed Forces—

(A) at Ramstein Air Force Base, Germany;

(B) at Dover Air Force Base, Delaware, and the Port Mortuary Facility at Dover Air Force Base; and

(C) at interim stops en route to the point of final destination in the transfer of the remains.

(2) The principal focus and purpose of the policy is to protect the wishes and the privacy of families of deceased members of the Armed Forces during their time of great loss and grief and to give families and friends of the dead the privilege to decide whether to allow media coverage at the member's duty or home station, at the interment site, or at or in connection with funeral and memorial services.

(3) In a 1991 legal challenge to the Department of Defense policy, as applied during Operation Desert Storm, the policy was upheld by the United States District Court for the District of Columbia, and on appeal, by the United States Court of Appeals for the District of Columbia in the case of JB Pictures, Inc. v. Department of Defense and Donald B. Rice, Secretary of the Air Force on the basis that denying the media the right to view the return of remains at Dover Air Force Base does not violate the first amendment guarantees of freedom of speech and of the press.

(4) The United States Court of Appeals for the District of Columbia in that case cited the following two key Government interests that are served by the Department of Defense policy:

(A) Reducing the hardship on the families and friends of the war dead, who may feel obligated to travel great distances to attend arrival ceremonies at Dover Air Force Base if such ceremonies were held.

(B) Protecting the privacy of families and friends of the dead, who may not want media coverage of the unloading of caskets at Dover Air Force Base.

(5) The Court also noted, in that case, that the bereaved may be upset at the public display of the caskets of their loved ones and that the policy gives the family the right to

grant or deny access to the media at memorial or funeral services at the home base and that the policy is consistent in its concern for families.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Defense policy regarding no media coverage of the transfer of the remains of deceased members of the Armed Forces—

(1) appropriately protects the privacy of the families and friends of the deceased; and

(2) is consistent with United States constitutional guarantees of freedom of speech and freedom of the press.

**SEC. 1083. TRANSFER OF HISTORIC F3A–1 BREWSTER CORSAIR AIRCRAFT.**

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may convey, without consideration, to Lex Cralley of Princeton Minnesota (in this section referred to as "transferee"), all right, title, and interest of the United States in and to a F3A–1 Brewster Corsair aircraft (Bureau Number 04634). The conveyance shall be made by means of a deed of gift.

(b) CONDITION OF AIRCRAFT.—The aircraft shall be conveyed under subsection (a) in its current unflyable, "as is" condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance and costs of operation and maintenance of the aircraft conveyed shall be borne by the transferee.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 1084. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) CLARIFICATION OF DEFINITION OF "OPERATIONAL RANGE".—Section 101(e)(3) of title 10, United States Code, is amended by striking "Secretary of Defense" and inserting "Secretary of a military department".

(b) AMENDMENTS RELATING TO DEFINITION OF CONGRESSIONAL DEFENSE COMMITTEES.—Title 10, United States Code, is amended as follows:

(1) Section 2215 is amended—

(A) by striking "(a) CERTIFICATION REQUIRED.—";

(B) by striking "congressional committees specified in subsection (b)" and inserting "congressional defense committees"; and

(C) by striking subsection (b).

(2) Section 2306b(g) is amended by striking "Committee on" the first place it appears and all that follows through "House of Representatives" and inserting "congressional defense committees".

(3) Section 2515(d) is amended—

(A) by striking "(1)" before "The Secretary";

(B) by striking "congressional committees specified in paragraph (2)" and inserting "congressional defense committees"; and

(C) by striking paragraph (2).

(4) Section 2676(d) is amended by striking "appropriate committees of Congress" at the end of the first sentence and inserting "congressional defense committees".

(c) AMENDMENTS RELATING TO CHANGE OF NAME OF GAO.—Title 10, United States Code, is amended as follows:

(1) Section 1084 is amended by striking "General Accounting Office" and inserting "Comptroller General".

(2) Section 1102(d)(2) is amended by striking "General Accounting Office" and inserting "Comptroller General".

(3) Section 2014(g) is amended by striking "General Accounting Office" and inserting "Government Accountability Office".

(d) MISCELLANEOUS AMENDMENTS TO 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 I of subtitle A, are amended by striking "481" in the item relating to chapter 23 and inserting "480".

(2) Section 130a is amended—

(A) by striking "Effective October 1, 2002, the" in subsection (a) and inserting "The";

(B) by striking "baseline number" in subsection (a) and all that follows through "means the" in subsection (c);

(C) by transferring subsection (e) so as to appear before subsection (d) and redesignating that subsection as subsection (b);

(D) by redesignating subsections (d) and (f) as subsection (c) and (d), respectively; and

(E) by striking subsection (g).

(3) Section 437(c) is amended by inserting "(50 U.S.C. 415b)" after "National Security Act of 1947".

(4) Section 487(d) is amended by striking "OTHER DEFINITIONS" and inserting "INAPPLICABILITY TO COAST GUARD".

(5) Section 503(c)(1)(B) is amended by striking "education" in the second sentence and inserting "educational".

(6) Section 632(c)(1) is amended—

(A) by striking "paragraph (2)" and inserting "paragraph (3)"; and

(B) by striking "under that paragraph" and inserting "under that subsection".

(7) The item relating to section 1076b in the table of sections at the beginning of chapter 55 is amended to read as follows:

"1076b. TRICARE program: coverage for members of the Ready Reserve.".

(8) Section 1108(e) is amended by striking "heath" and inserting "health".

(9) Section 1406(g) is amended—

(A) by striking "section 305" and inserting "section 245"; and

(B) by striking "Officers Act of 2002" and inserting "Officer Corps Act of 2002 (33 U.S.C. 3045)".

(10) Sections 1448(b)(1)(F), 1448(d)(2)(B), 1448(d)(6)(A), and 1458(j) are amended by striking "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004" and inserting "after November 23, 2003,".

(11) Sections 1463(a)(1), 1465(c)(1)(A), 1465(c)(1)(B), 1465(c)(4)(A), 1465(c)(4)(B), and 1466(b)(2)(D) are amended by striking "1413, 1413a," and inserting "1413a".

(12) Section 1557(b) is amended by striking "Effective October 1, 2002, final" and inserting "Final".

(13) Section 1566 is amended—

(A) in subsection (g)(2), by striking "the date that is 6 months after the date of the enactment of the Help America Vote Act of 2002" in the last sentence and inserting "April 29, 2003"; and

(B) in subsections (h), (i)(1), and (i)(3), by striking "Armed Forces" and inserting "armed forces".

(14) Sections 1724(d) and 1732(d)(1) are amended by striking "its decision" in the second sentence and inserting "the decision of the Secretary".

(15) Section 1761(b) is amended—

(A) in the matter preceding paragraph (1), by striking "provide for—" and inserting "provide for the following:";

(B) in paragraphs (1), (2), and (3), by capitalizing the first letter of the first word;

(C) at the end of paragraphs (1) and (2), by striking the semicolon and inserting a period;

(D) at the end of paragraph (3), by striking "; and" and inserting a period; and

(E) by striking paragraph (4).

(16) Section 2193b(c)(2) is amended by striking "the date of the enactment of this section" and inserting "October 5, 1999".

(17) Section 2224(c) is amended in the matter preceding paragraph (1) by striking "subtitle II of chapter 35" and inserting "subchapter II of chapter 35".

(18) Section 2349(d) is amended by striking "section 2350a(i)(3)" and inserting "section 2350a(i)(2)".

(19) Section 2350b(g) is amended—

(A) in the matter preceding paragraph (1), by inserting "the Secretary of Defense" after "authorizing"; and

(B) in paragraph (1), by striking "the Secretary of Defense".

(20) Section 2474(f)(2) is amended by striking "section 2466(e)" and inserting "section 2466(d)".

(21) Section 2540(b)(2) is amended by inserting ", as in effect on that date" before the period at the end.

(22) Section 2662(a)(2) is amended—

(A) in the first sentence, by striking "must include a summarization" and inserting "shall include a summary"; and

(B) in the second sentence, by inserting "of paragraph (1)" after "in subparagraph (E)".

(23) Section 2672a(a) is amended—

(A) in the matter preceding paragraph (1), by inserting "in any case in which the Secretary determines" after "in land";

(B) in paragraph (1), by striking "the Secretary determines" and inserting "the acquisition"; and

(C) in paragraph (2), by inserting "the acquisition" after "(2)".

(24) Section 2701 is amended—

(A) in subsection (a)(2), by inserting "(42 U.S.C. 9620)" before the period at the end;

(B) in subsection (c)(2), by striking "of CERCLA (relating to settlements)" and inserting "(relating to settlements) of CERCLA (42 U.S.C. 9622)";

(C) in subsection (e), by inserting "(42 U.S.C. 9619)" after "CERCLA"; and

(D) in subsection (j)(2), by striking "the Comprehensive" and all the follows through "of 1980" and inserting "CERCLA".

(25) Section 2702 is amended by inserting "(42 U.S.C. 9660(a)(5))" in the second sentence of subsection (a) before the period at the end.

(26) Section 2703(b) is amended by striking "The terms" at the beginning of the second sentence and inserting "For purposes of the preceding sentence, the terms".

(27) Section 2704 is amended by inserting "(42 U.S.C. 9604(i))" in subsections (c), (e), and (f) after "CERCLA".

(28) The second section 3755, added by section 543(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2549), is redesignated as section 3756, and the item relating to that section in the table of sections at the beginning of chapter 357 is revised to reflect such redesignation.

(29) Section 4689 is amended by striking "Building" after "Capitol".

(30) The second section 6257, added by section 543(c)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2549), is redesignated as section 6258, and the item relating to that section in the table of sections at the beginning of chapter 567 is revised to reflect such redesignation.

(31) Section 7102 is amended—

(A) by striking "AUTHORITY" at the beginning of subsection (a) and inserting "MASTER OF MILITARY STUDIES";

(B) by striking "MARINE CORPS WAR COLLEGE" at the beginning of subsection (b) and inserting "MASTER OF STRATEGIC STUDIES";

(C) by striking "COMMAND AND STAFF COLLEGE OF THE MARINE CORPS UNIVERSITY" at the beginning of subsection (c) and inserting "MASTER OF OPERATIONAL STUDIES"; and

(D) by striking "subsections (a) and (b)" in subsection (d) and inserting "subsections (a), (b), and (c)".

(32) Section 8084 is amended by striking "capabilty" and inserting "capability".

(33) The second section 8755, added by section 543(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2550), is redesignated as section 8756, and the item relating to that section in the table of sections at the beginning of chapter 857 is revised to reflect such redesignation.

(34) The table in section 12012(a) is amended by inserting a colon after "Air National Guard".

(e) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 301a(b)(4) is amended by striking "section 301(a)(11)" and inserting "section 301(a)(13)".

(2) Section 323(h) is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security".

(f) PUBLIC LAW 108–136.—Effective as of November 24, 2003, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) is amended as follows:

(1) Sections 832(a) and 834(a) (117 Stat. 1550) are each amended by striking "such title" and inserting "title 10, United States Code,".

(2) Section 931(a)(1) (117 Stat. 1580) is amended by striking "and donations" in the first quoted matter and inserting "or donations".

(3) Section 2204(b) (117 Stat. 1706) is amended by striking "section 2101(a)" each place it appears and inserting "section 2201(a)".

(g) PUBLIC LAW 107–314.—Effective as of December 2, 2002, and as if included therein as enacted, section 1064(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2654) is amended by inserting "the item relating to" after "is amended by inserting after".

(h) PUBLIC LAW 107–107.—Effective as of December 28, 2001, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) is amended as follows:

(1) Section 824(a)(1)(C) (115 Stat. 1183) is amended by striking "(3)(A)" and inserting "(3)(B)".

(2) Section 1048(e)(4) (115 Stat. 1227) is amended by striking "Subsection" and inserting "Section".

(3) Section 1111(c) (115 Stat. 1238) is amended by striking "This provision" and inserting "Section 5949 of title 5, United States Code, as added by subsection (a),".

(i) PUBLIC LAW 101–510.—Section 2902(e)(2)(B) 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) in clause (i), by striking "Subcommittee on Readiness, Sustainability, and Support" and inserting "Subcommittee on Readiness and Management Support"; and

(2) in clause (ii), by striking "Subcommittee on Military Installations and Facilities" and inserting "Subcommittee on Readiness".

(j) NATIONAL SECURITY ACT OF 1947.—Sections 702(a)(6)(B)(iv)(I), 703(a)(6)(B)(iv)(I), and 704(f)(2)(D)(i) of the National Security Act of 1947 are amended by striking "responsible records" and inserting "responsive records".

(k) CODIFICATION RELATING TO LEAVE FOR ATTENDANCE AT CERTAIN HEARINGS.—Subsection (b) of section 363 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (10 U.S.C. 704 note) is—

(1) transferred to section 704 of title 10, United States Code;

(2) inserted at the end of that section;

(3) redesignated as subsection (c); and

(4) amended—

(A) by striking "Armed Forces" each place it appears and inserting "armed forces";

(B) in paragraph (1)—

(i) by striking "Secretary of each" and all that follows through "in the Navy," and inserting "Secretary concerned"; and

(ii) by striking "(as defined in section 101 of title 10, United States Code)"; and

(C) in paragraph (3)—

(i) by striking "For purposes of this subsection—" and inserting "In this subsection:";

(ii) in subparagraph (A), by striking "title 10, United States Code" and inserting "this title"; and

(iii) in subparagraph (B), by striking "such term" and inserting "that term".

**SEC. 1085. PRESERVATION OF SEARCH AND RESCUE CAPABILITIES OF THE FEDERAL GOVERNMENT.**

The Secretary of Defense may not reduce or eliminate search and rescue capabilities at any military installation in the United States unless the Secretary first certifies to the Committees on Armed Services of the Senate and the House of Representatives that equivalent search and rescue capabilities will be provided, without interruption and consistent with the policies and objectives set forth in the United States National Search and Rescue Plan entered into force on January 1, 1999, by—

(1) the Department of Interior, the Department of Commerce, the Department of Homeland Security, the Department of Transportation, the Federal Communications Commission, or the National Aeronautics and Space Administration; or

(2) the Department of Defense, either directly or through a Department of Defense contract with an emergency medical service provider or other private entity to provide such capabilities.

**SEC. 1086. ACQUISITION OF AERIAL FIREFIGHTING EQUIPMENT FOR NATIONAL INTERAGENCY FIRE CENTER.**

(a) FINDINGS.—Congress makes the following findings:

(1) The National Interagency Fire Center does not possess an adequate number of aircraft for use in aerial firefighting, and personnel at the Center rely on military aircraft to provide such firefighting services.

(2) It is in the national security interest of the United States for the National Interagency Fire Center to acquire aircraft for use in aerial firefighting so that the military aircraft made available for aerial firefighting will instead be available for use by the Armed Forces.

(b) AUTHORITY TO PURCHASE AERIAL FIREFIGHTING EQUIPMENT.—(1) The Secretary of Agriculture is authorized to purchase 10 aircraft, as described in paragraph (2), for the National Interagency Fire Center for use in aerial firefighting.

(2) The aircraft referred to in paragraph (1) shall be aircraft that are—

(A) specifically designed and built for aerial firefighting;

(B) certified by the Chief of the Forest Service as suited for conditions commonly experienced in aerial firefighting operations carried out in the United States, including Alaska; and

(C) manufactured in a manner that is consistent with the recommendations for aircraft used in aerial firefighting contained in—

(i) the Blue Ribbon Panel Report to the Chief of the Forest Service and the Director of the Bureau of Land Management dated December 2002; and

(ii) the Safety Recommendation of the Chairman of the National Transportation Safety Board related to aircraft used in aerial firefighting dated April 23, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture for fiscal year 2005 such funds as may be necessary to purchase the 10 aircraft described in subsection (b).

**SEC. 1087. REVISION TO REQUIREMENTS FOR RECOGNITION OF INSTITUTIONS OF HIGHER EDUCATION AS HISPANIC-SERVING INSTITUTIONS FOR PURPOSES OF CERTAIN GRANTS AND CONTRACTS.**

Section 502(a)(5)(C) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)(C)) is amended by inserting before the period the following: ", which assurances—

"(i) may employ statistical extrapolation using appropriate data from the Bureau of the Census or other appropriate Federal or State sources; and

"(ii) the Secretary shall consider as meeting the requirements of this subparagraph, unless the Secretary determines, based on a preponderance of the evidence, that the assurances do not meet the requirements".

**SEC. 1088. MILITARY EXTRATERRITORIAL JURISDICTION OVER CONTRACTORS SUPPORTING DEFENSE MISSIONS OVERSEAS.**

Section 3267(1)(A) of title 18, United States Code, is amended to read as follows:

"(A) employed as—

"(i) a civilian employee of—

"(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

"(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas;

"(ii) a contractor (including a subcontractor at any tier) of—

"(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

"(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas; or

"(iii) an employee of a contractor (or subcontractor at any tier) of—

"(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

"(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas;".

**SEC. 1089. DEFINITION OF UNITED STATES FOR PURPOSES OF FEDERAL CRIME OF TORTURE.**

Section 2340(3) of title 18, United States Code, is amended to read as follows:

"(3) 'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.".

**SEC. 1090. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

(a) IN GENERAL.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking "2003" and inserting "2006".

(b) PAYMENT OF COSTS.—Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by inserting ", water, or wastewater treatment" after "payment of energy".

(c) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

"(2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

"(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

"(C) the increased efficient use of existing water sources in either interior or exterior applications.".

(d) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40, United States Code), be in compliance with the prospectus requirements and procedures of section 3307 of title 40, United States Code.".

(e) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

"(4) The term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551; or

"(B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.".

(f) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to Congress and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

(g) EXTENSION OF AUTHORITY.—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be deemed to have been entered into pursuant to such section 801 as amended by subsection (a) of this section.

**SEC. 1091. SENSE OF CONGRESS AND POLICY CONCERNING PERSONS DETAINED BY THE UNITED STATES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the abuses inflicted upon detainees at the Abu Ghraib prison in Baghdad, Iraq, are inconsistent with the professionalism, dedication, standards, and training required of individuals who serve in the United States Armed Forces;

(2) the vast majority of members of the Armed Forces have upheld the highest possible standards of professionalism and morality in the face of illegal tactics and terrorist attacks and attempts on their lives;

(3) the abuse of persons in United States custody in Iraq is appropriately condemned and deplored by the American people;

(4) the Armed Forces are moving swiftly and decisively to identify, try, and, if found guilty, punish persons who perpetrated such abuse;

(5) the Department of Defense and appropriate military authorities must continue to undertake corrective action, as appropriate, to address chain-of-command deficiencies and the systemic deficiencies identified in the incidents in question;

(6) the Constitution, laws, and treaties of the United States and the applicable guidance and regulations of the United States Government prohibit the torture or cruel, inhuman, or degrading treatment of foreign prisoners held in custody by the United States;

(7) the alleged crimes of a handful of individuals should not detract from the commendable sacrifices of over 300,000 members of the Armed Forces who have served, or who are serving, in Operation Iraqi Freedom; and

(8) no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of United States.

(b) POLICY.—It is the policy of the United States to—

(1) ensure that no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States;

(2) investigate and prosecute, as appropriate, all alleged instances of unlawful treatment of detainees in a manner consistent with the international obligations, laws, or policies of the United States;

(3) ensure that all personnel of the United States Government understand their obligations in both wartime and peacetime to comply with the legal prohibitions against torture, cruel, inhuman, or degrading treatment of detainees in the custody of the United States;

(4) ensure that, in a case in which there is doubt as to whether a detainee is entitled to prisoner of war status under the Geneva Conventions, such detainee receives the protections accorded to prisoners of war until the detainee's status is determined by a competent tribunal; and

(5) expeditiously process and, if appropriate, prosecute detainees in the custody of the United States, including those in the custody of the United States Armed Forces at Guantanamo Bay, Cuba.

(c) DETAINEES.—For purposes of this section, the term "detainee" means a person in the custody or under the physical control of the United States as a result of armed conflict.

**SEC. 1092. ACTIONS TO PREVENT THE ABUSE OF DETAINEES.**

(a) POLICIES REQUIRED.—The Secretary of Defense shall ensure that policies are prescribed not later than 150 days after the date of the enactment of this Act regarding procedures for Department of Defense personnel and contractor personnel of the Department of Defense intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, treat persons detained by the United States Government in a humane manner consistent with the international obligations and laws of the United States and the policies set forth in section 1091(b).

(b) MATTERS TO BE INCLUDED.—In order to achieve the objective stated in subsection (a), the policies under that subsection shall specify, at a minimum, procedures for the following:

(1) Ensuring that each commander of a Department of Defense detention facility or interrogation facility—

(A) provides all assigned personnel with training, and documented acknowledgment of receiving training, regarding the law of war, including the Geneva Conventions; and

(B) establishes standard operating procedures for the treatment of detainees.

(2) Ensuring that each Department of Defense contract in which contract personnel in the course of their duties interact with individuals detained by the Department of Defense on behalf of the United States Government include a requirement that such contract personnel have received training, and documented acknowledgment of receiving training, regarding the international obligations and laws of the United States applicable to the detention of personnel.

(3) Providing all detainees with information, in their own language, of the applicable protections afforded under the Geneva Conventions.

(4) Conducting periodic unannounced and announced inspections of detention facilities in order to provide continued oversight of interrogation and detention operations.

(5) Ensuring that, to the maximum extent practicable, detainees and detention facility personnel of a different gender are not alone together.

(c) SECRETARY OF DEFENSE CERTIFICATION.—The Secretary of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogation of individuals detained by the Department of Defense on behalf of the United States Government have fulfilled an annual training requirement on the law of war, the Geneva Conventions, and the obligations of the United States under international law.

**SEC. 1093. REPORTING REQUIREMENTS.**

(a) TRANSMISSION OF REGULATIONS, ETC.—Not later than 30 days after the date on which regulations, policies, and orders are first prescribed under section 1092(a), the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement section 1092.

(b) ONE-YEAR IMPLEMENTATION REPORT.—Not later than one year after the date on which regulations, policies, and orders are first prescribed under section 1092(a), the Secretary shall submit to such committees a report on further steps taken to implement section 1092 to the date of such report.

(c) ANNUAL REPORT.—Nine months after the date of the enactment of this Act and annually thereafter, 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 for the preceding 12-months containing the following:

(1) Notice of any investigation into any violation of international obligations or laws of the United States regarding the treatment of individuals detained by the United States Armed Forces or by a person providing services to the Department of Defense on a contractual basis, if the notice will not compromise any ongoing criminal or administrative investigation or prosecution.

(2) General information on the foreign national detainees in the custody of the Department of Defense during the 12-month period covered by the report, including the following:

(A) The best estimate of the Secretary of Defense of the total number of detainees in the custody of the Department as of the date of the report.

(B) The best estimate of the Secretary of Defense of the total number of detainees released from the custody of the Department during the period covered by the report.

(C) An aggregate summary of the number of persons detained as enemy prisoners of war, civilian internees, and unlawful combatants, including information regarding the average length of detention for persons in each category.

(D) An aggregate summary of the nationality of persons detained.

(E) Aggregate information as to the transfer of detainees to the jurisdiction of other countries, and the countries to which transferred.

(d) CLASSIFICATION OF REPORTS.—Reports submitted under this section shall be submitted, to the extent practicable, in unclassified form, but may include a classified annex as necessary to protect the national security of the United States.

(e) TERMINATION.—The requirements of this section shall cease to be in effect on December 31, 2007.

**SEC. 1094. FINDINGS AND SENSE OF CONGRESS CONCERNING ARMY SPECIALIST JOSEPH DARBY.**

(a) FINDINGS.—Congress makes the following findings:

(1) The need to act in accord with one's conscience, risking one's career and even the esteem of one's colleagues by pursuing what is right is especially important today.

(2) While the Department of Defense investigates the horrific abuses in American detention facilities in Iraq, the Nation should bear in mind that the abuses were only brought to light because of the courage of an American soldier.

(3) By alerting his superiors to abuses at Abu Ghraib prison in Iraq, Army Specialist Joseph Darby demonstrated the courage to speak out and do what is right for his country.

(4) Such an action is especially important in light of the many challenges facing the country.

(5) Specialist Darby deserves the Nation's thanks for speaking up and for standing up for what is right.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of Defense should make every protection available to Army Specialist Joseph Darby and others who demonstrate such courage; and

(2) Specialist Darby should be commended appropriately by the Secretary of the Army.

# TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Payment of Federal employee health benefit premiums for mobilized Federal employees.
Sec. 1102. Foreign language proficiency pay.
Sec. 1103. Pay and performance appraisal parity for civilian intelligence personnel.
Sec. 1104. Pay parity for senior executives in defense nonappropriated fund instrumentalities.
Sec. 1105. Science, mathematics, and research for transformation (SMART) defense scholarship pilot program.
Sec. 1106. Report on how to recruit and retain individuals with foreign language skills.
Sec. 1107. Plan on implementation and utilization of flexible personnel management authorities in Department of Defense laboratories.

**SEC. 1101. PAYMENT OF FEDERAL EMPLOYEE HEALTH BENEFIT PREMIUMS FOR MOBILIZED FEDERAL EMPLOYEES.**

(a) AUTHORITY TO CONTINUE BENEFIT COVERAGE.—Section 8905a of title 5, United States Code is amended—

(1) in subsection (a), by striking "paragraph (1) or (2) of";

(2) in subsection (b)—

(A) in paragraph (1)(B), by striking "and" at the end;

(B) in paragraph (2)(C), by striking the period at the end and inserting "; and"; and

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

"(3) any employee who—

"(A) is enrolled in a health benefits plan under this chapter;

"(B) is a member of a reserve component of the armed forces;

"(C) is called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);

"(D) is placed on leave without pay or separated from service to perform active duty; and

"(E) serves on active duty for a period of more than 30 consecutive days."; and

(4) in subsection (e)(1)—

(A) in subparagraph (A), by striking "or" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; or"; and

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

"(C) in the case of an employee described in subsection (b)(3), the date which is 24 months after the employee is placed on leave without pay or separated from service to perform active duty.".

(b) AUTHORITY FOR AGENCIES TO PAY PREMIUMS.—Subparagraph (C) of section 8906(e)(3) of such title is amended by striking "18 months" and inserting "24 months".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to Federal employees called or ordered to active duty on or after September 14, 2001.

**SEC. 1102. FOREIGN LANGUAGE PROFICIENCY PAY.**

(a) ELIGIBILITY FOR SERVICE NOT RELATED TO CONTINGENCY OPERATIONS.—Section 1596a(a)(2) of title 10, United States Code, is amended by striking "during a contingency operation supported by the armed forces".

(b) EFFECTIVE DATE.—The amendment by this section shall take effect on the first day of the first month that begins after the date of the enactment of this Act.

**SEC. 1103. PAY AND PERFORMANCE APPRAISAL PARITY FOR CIVILIAN INTELLIGENCE PERSONNEL.**

(a) PAY RATES.—Section 1602 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "in relation to the rates of pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities" and inserting "in relation to the

rates of pay provided for comparable positions in the Department of Defense and subject to the same limitations on maximum rates of pay established for employees of the Department of Defense by law or regulation";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(b) PERFORMANCE APPRAISAL SYSTEM.—Section 1606 of such title is amended by adding at the end the following new subsection:

"(d) PERFORMANCE APPRAISALS.—(1) The Defense Intelligence Senior Executive Service shall be subject to a performance appraisal system which, as designed and applied, is certified by the Secretary of Defense under section 5307 of title 5 as making meaningful distinctions based on relative performance.

"(2) The performance appraisal system applicable to the Defense Intelligence Senior Executive Service under paragraph (1) may be the same performance appraisal system that is established and implemented within the Department of Defense for members of the Senior Executive Service.".

**SEC. 1104. PAY PARITY FOR SENIOR EXECUTIVES IN DEFENSE NONAPPROPRIATED FUND INSTRUMENTALITIES.**

(a) AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by inserting after section 1587 the following new section:

**"§ 1587a. Employees of nonappropriated fund instrumentalities: senior executive pay levels**

"(a) AUTHORITY.—To achieve the objective stated in subsection (b), the Secretary of Defense may regulate the amount of total compensation that is provided for senior executives of nonappropriated fund instrumentalities who, for the fixing of pay by administrative action, are under the jurisdiction of the Secretary of Defense or the Secretary of a military department.

"(b) PAY PARITY.—The objective of an action taken with respect to the compensation of senior executives under subsection (a) is to provide for parity between the total compensation provided for such senior executives and total compensation that is provided for Department of Defense employees in Senior Executive Service positions or other senior executive positions.

"(c) STANDARDS OF COMPARABILITY.—Subject to subsection (d), the Secretary of Defense shall prescribe the standards of comparison that are to apply in the making of the determinations necessary to achieve the objective stated in subsection (b).

"(d) ESTABLISHMENT OF PAY RATES.—The Secretary of Defense shall apply subsections (a) and (b) of section 5382 of title 5 in the regulation of compensation under this section.

"(e) RELATIONSHIP TO PAY LIMITATION.—The Secretary of Defense may exercise the authority provided in subsection (a) without regard to section 5373 of title 5.

"(f) DEFINITIONS.—In this section:

"(1) The term 'compensation' includes rate of basic pay.

"(2) The term 'Senior Executive Service position' has the meaning given such term in section 3132 of title 5.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1587 the following new item:

"1587a. Employees of nonappropriated fund instrumentalities: senior executive pay levels.".

**SEC. 1105. SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE SCHOLARSHIP PILOT PROGRAM.**

(a) REQUIREMENT FOR PROGRAM.—(1) The Secretary of Defense shall carry out a pilot program to provide financial assistance for education in science, mathematics, engineering, and technology skills and disciplines that, as determined by the Secretary, are critical to the national security functions of the Department of Defense and are needed in the Department of Defense workforce.

(2) The pilot program under this section shall be carried out for three years beginning on the date of the enactment of this Act.

(b) SCHOLARSHIPS.—(1) Under the pilot program, the Secretary of Defense may award a scholarship in accordance with this section to a person who—

(A) is a citizen of the United States;

(B) is pursuing an undergraduate or advanced degree in a critical skill or discipline described in subsection (a) at an institution of higher education; and

(C) enters into a service agreement with the Secretary of Defense as described in subsection (c).

(2) The amount of the financial assistance provided under a scholarship awarded to a person under this subsection shall be the amount determined by the Secretary of Defense as being necessary to pay all educational expenses incurred by that person, including tuition, fees, cost of books, laboratory expenses, and expenses of room and board. The expenses paid, however, shall be limited to those educational expenses normally incurred by students at the institution of higher education involved.

(c) SERVICE AGREEMENT FOR RECIPIENTS OF ASSISTANCE.—(1) To receive financial assistance under this section—

(A) in the case of an employee of the Department of Defense, the employee shall enter into a written agreement to continue in the employment of the department for the period of obligated service determined under paragraph (2); and

(B) in the case of a person not an employee of the Department of Defense, the person shall enter into a written agreement to accept and continue employment in the Department of Defense for the period of obligated service determined under paragraph (2).

(2) For the purposes of this subsection, the period of obligated service for a recipient of a scholarship under this section shall be the period determined by the Secretary of Defense as being appropriate to obtain adequate service in exchange for the financial assistance provided under the scholarship. In no event may the period of service required of a recipient be less than the total period of pursuit of a degree that is covered by the scholarship. The period of obligated service is in addition to any other period for which the recipient is obligated to serve in the civil service of the United States.

(3) An agreement entered into under this subsection by a person pursuing an academic degree shall include any terms and conditions that the Secretary of Defense determines necessary to protect the interests of the United States or otherwise appropriate for carrying out this section.

(d) REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1) A person who voluntarily terminates service before the end of the period of obligated service required under an agreement entered into under subsection (c) shall refund to the United States an amount determined by the Secretary of Defense as being appropriate to obtain adequate service in exchange for financial assistance.

(2) 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 of Defense may waive, in whole or in part, a refund required under paragraph (1) if the Secretary 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, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under this subsection.

(e) RELATIONSHIP TO OTHER PROGRAMS.—The pilot program under this section is in addition to the authorities provided in chapter 111 of title 10, United States Code. The Secretary of Defense shall coordinate the provision of financial assistance under the authority of this section with the provision of financial assistance under the authorities provided in such chapter in order to maximize the benefits derived by the Department of Defense from the exercise of all such authorities.

(f) RECOMMENDATION ON PILOT PROGRAM.—Not later than February 1, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives a plan for expanding and improving the national defense science and engineering workforce educational assistance pilot program carried out under this section as appropriate to improve recruitment and retention to meet the requirements of the Department of Defense for its science and engineering workforce on a short-term basis and on a long-term basis.

(g) CRITICAL HIRING NEED.—Section 3304(a)(3) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

> "(B)(i) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need; or
>
> "(ii) the candidate is a participant in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program under section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.".

(h) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term "institution of higher education" has the meaning given such term in section 101 of the Higher Education Act of 1965 (21 U.S.C. 1001).

**SEC. 1106. REPORT ON HOW TO RECRUIT AND RETAIN INDIVIDUALS WITH FOREIGN LANGUAGE SKILLS.**

Not later than March 31, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, a plan for expanding and improving the national security foreign language workforce of the Department of Defense as appropriate to improve recruitment and retention to meet the requirements of the Department for its foreign language workforce on a short-term basis and on a long-term basis.

**SEC. 1107. PLAN ON IMPLEMENTATION AND UTILIZATION OF FLEXIBLE PERSONNEL MANAGEMENT AUTHORITIES IN DEPARTMENT OF DEFENSE LABORATORIES.**

(a) PLAN REQUIRED.—The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Personnel and Readiness shall jointly develop a plan for the effective utilization of the personnel management authorities referred to in subsection (b) in order to increase the mission responsiveness, efficiency, and effectiveness of Department of Defense laboratories.

(b) COVERED AUTHORITIES.—The personnel management authorities referred to in this subsection are the personnel management authorities granted to the Secretary of Defense by the provisions of law as follows:

(1) Section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 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–315)).

(2) Section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 5 U.S.C. 3104 note).

(3) Section 9902(c) of title 5, United States Code.

(4) Such other provisions of law as the Under Secretaries jointly consider appropriate for purposes of this section.

(c) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) include such elements as the Under Secretaries jointly consider appropriate to provide for the effective utilization of the personnel management authorities referred to in subsection (b) as described in subsection (a), including the recommendations of the Under Secretaries for such additional authorities, including authorities for demonstration programs or projects, as are necessary to achieve the effective utilization of such personnel management authorities; and

(2) include procedures, including a schedule for review and decisions, on proposals to modify current demonstration programs or projects, or to initiate new demonstration programs or projects, on flexible personnel management at Department laboratories

(d) SUBMITTAL TO CONGRESS.—The Under Secretaries shall jointly submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the plan under subsection (a) not later than December 1, 2005.

# TITLE XII—MATTERS RELATING TO OTHER NATIONS

**Subtitle A—Matters Relating to Iraq, Afghanistan, and Global War on Terrorism**

Sec. 1201. Commanders' Emergency Response Program.
Sec. 1202. Assistance to Iraq and Afghanistan military and security forces.
Sec. 1203. Redesignation and modification of authorities relating to Inspector General of the Coalition Provisional Authority.
Sec. 1204. Presidential report on strategy for stabilization of Iraq.
Sec. 1205. Guidance on contractors supporting deployed forces in Iraq.
Sec. 1206. Report on contractors supporting deployed forces and reconstruction efforts in Iraq.
Sec. 1207. United Nations Oil-for-Food Program.
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**Subtitle B—Counterproliferation Matters**

Sec. 1211. Defense international counterproliferation programs.
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Sec. 1221. Authority for humanitarian assistance for the detection and clearance of landmines extended to include other explosive remnants of war.
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## Subtitle A—Matters Relating to Iraq, Afghanistan, and Global War on Terrorism

**SEC. 1201. COMMANDERS' EMERGENCY RESPONSE PROGRAM.**

(a) FISCAL YEAR 2005 AUTHORITY.—During fiscal year 2005, from funds made available to the Department of Defense for operation and maintenance pursuant to title XV, not to exceed $300,000,000 may be used to provide funds—

(1) for the Commanders' Emergency Response Program, established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people; and

(2) for a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal-year quarter (beginning with the first quarter of fiscal year 2005), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes stated in subsection (a).

(c) WAIVER AUTHORITY.—For purposes of the exercise of the authority provided by this section or any other provision of law making funding available for the Commanders' Emergency Response Program referred to in subsection (a) (including a program referred to in paragraph (2) of that subsection), the Secretary may waive any provision of law not contained in this section that would (but for the waiver) prohibit, restrict, limit, or otherwise constrain the exercise of that authority.

(d) REVIEW OF LAWS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report identifying all provisions of law that (if not waived) would prohibit, restrict, limit, or otherwise constrain the exercise of the authority provided in this section or any other provision of law using funds available for the purposes stated in subsection (a).

**SEC. 1202. ASSISTANCE TO IRAQ AND AFGHANISTAN MILITARY AND SECURITY FORCES.**

(a) AUTHORITY.—The Secretary of Defense may provide assistance under this section to Iraq and Afghanistan military and security forces. Such assistance shall be provided, subject to the provisions of this section, solely to enhance the ability of such forces to combat terrorism and support United States or coalition military operations in Iraq and Afghanistan, respectively.

(b) TYPE OF ASSISTANCE.—Assistance provided under subsection (a) may include equipment, supplies, services, and training.

(c) LIMITATIONS.—Assistance under this section or under any other provision of law for the purpose described in subsection (a) may be provided only from funds available to the Department of Defense for fiscal year 2005 for operation and maintenance under title XV. The total amount of such assistance may not exceed $500,000,000.

(d) CONGRESSIONAL NOTIFICATION.—Before any provision of assistance under this section or any other provision of law for the purpose described in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a notification of the assistance proposed to be provided. Any such notification shall be submitted not less than 15 days before the provision of such assistance.

(e) MILITARY AND SECURITY FORCES DEFINED.—For purposes of this section, the term "military and security forces" means national armies, national guard forces, border security forces, civil defense forces, infrastructure protection forces, and police.

**SEC. 1203. REDESIGNATION AND MODIFICATION OF AUTHORITIES RELATING TO INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY.**

(a) REDESIGNATION.—(1) Subsections (b) and (c)(1) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note) are each amended by striking "Office of the Inspector General of the Coalition Provisional Authority" and inserting "Office of the Special Inspector General for Iraq Reconstruction".

(2) Subsection (c)(1) of such section is further amended by striking "Inspector General of the Coalition Provisional Authority"

and inserting "Special Inspector General for Iraq Reconstruction (in this section referred to as the 'Inspector General')".

(3)(A) The heading of such section is amended to read as follows:

**"SEC. 3001. SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.".**

(B) The heading of title III of such Act is amended to read as follows:

## "TITLE III—SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION".

(b) CONTINUATION IN OFFICE.—The individual serving as the Inspector General of the Coalition Provisional Authority as of the date of the enactment of this Act may continue to serve in that position after that date without reappointment under paragraph (1) of section 3001(c) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, but remaining subject to removal as specified in paragraph (4) of that section.

(c) PURPOSES.—Subsection (a) of such section is amended—

(1) in paragraph (1), by striking "of the Coalition Provisional Authority (CPA)" and inserting "funded with amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund";

(2) in paragraph (2)(B), by striking "fraud" and inserting "waste, fraud,"; and

(3) in paragraph (3), by striking "the head of the Coalition Provisional Authority" and inserting "the Secretary of State and the Secretary of Defense".

(d) RESPONSIBILITIES OF ASSISTANT INSPECTOR GENERAL FOR AUDITING.—Subsection (d)(1) of such section is amended by striking "of the Coalition Provisional Authority" and inserting "supported by the Iraq Relief and Reconstruction Fund".

(e) SUPERVISION.—Such section is further amended—

(1) in subsection (e)—

(A) in paragraph (1), by striking "the head of the Coalition Provisional Authority" and inserting "the Secretary of State and the Secretary of Defense"; and

(B) in paragraph (2)—

(i) by striking "Neither the head of the Coalition Provisional Authority," and all that follows through "nor any other officer" and inserting "No officer"; and

(ii) by striking "investigation," and all that follows through "course of any" and inserting "investigation related to the Iraq Relief and Reconstruction Fund or from issuing any subpoena during the course of any such";

(2) in subsection (h)—

(A) in paragraphs (4)(B) and (5), by striking "head of the Coalition Provisional Authority" and inserting "Secretary of State or Secretary of Defense, as appropriate,"; and

(B) in paragraph (5), by striking "at the central and field locations of the Coalition Provisional Authority" and

inserting "within the Department of Defense or at appropriate locations of the Department of State in Iraq";

(3) in subsection (j)—

(A) in paragraph (1), by striking "the head of the Coalition Provisional Authority" and inserting "the Secretary of State and the Secretary of Defense"; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking "the head of the Coalition Provisional Authority" the first place it appears and inserting "the Secretary of State or the Secretary of Defense"; and

(II) by striking "the head of the Coalition Provisional Authority" the second place it appears and inserting "the Secretary of State or the Secretary of Defense, as the case may be,"; and

(ii) in subparagraph (B), by striking "the head of the Coalition Provisional Authority" and inserting "the Secretary of State or the Secretary of Defense, as the case may be,"; and

(4) in subsection (k), by striking "the head of the Coalition Provisional Authority shall" both places it appears and inserting "the Secretary of State and the Secretary of Defense shall jointly".

(f) DUTIES.—Subsection (f)(1) of such section is amended—

(1) in the matter preceding subparagraph (A), by striking "appropriated funds by the Coalition Provisional Authority in Iraq" and inserting "amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund"; and

(2) in subparagraph (D), by striking "the Coalition Provisional Authority," and all that follows through "Government, and" and inserting "departments, agencies, and entities of the United States and".

(g) INTERAGENCY COORDINATION.—Subsection (f) of such section is further amended by striking paragraphs (4) and (5) and inserting the following new paragraph (4):

"(4) In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, each of the following:

"(A) The Inspector General of the Department of State.

"(B) The Inspector General of the Department of Defense.

"(C) The Inspector General of the United States Agency for International Development.".

(h) POWERS AND AUTHORITIES.—Subsection (g)(1) of such section is amended by inserting before the period the following: ", including the authorities under subsection (e) of such section".

(i) REPORTS.—Subsection (i) of such section is amended—

(1) in paragraph (1)—

(A) by striking the first sentence and inserting the following: "Not later than 30 days after the end of each fiscal-year quarter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report, the activities during such period of the Inspector General and the activities

under programs and operations funded with amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.";

(B) in subparagraph (B), by striking "the Coalition Provisional Authority" and inserting "the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable,";

(C) in subparagraph (E)—

(i) by striking "the Coalition Provisional Authority and of any other"; and

(ii) by striking "appropriated funds" and inserting "amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund"; and

(D) in subparagraph (F)(iii), by striking "the Coalition Provisional Authority" and inserting "the contracting department or agency";

(2) in paragraph (2), by striking "by the Coalition Provisional Authority" and inserting "by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund";

(3) in paragraph (3)—

(A) by striking "Not later than June 30, 2004, and semiannually thereafter, the" and inserting "The";

(B) by striking "a report" and inserting "semiannual reports"; and

(C) and by adding at the end the following new sentence: "The first such report for a year, covering the first six months of the year, shall be submitted not later than July 31 of that year, and the second such report, covering the second six months of the year, shall be submitted not later than January 31 of the following year."; and

(4) in paragraph (4), by striking "of the Coalition Provisional Authority" and inserting "of the Department of State and of the Department of Defense".

(j) TERMINATION.—Subsection (o) of such section is amended to read as follows:

"(o) TERMINATION.—The Office of the Inspector General shall terminate on the date that is 10 months after the date, as determined by the Secretary of State and the Secretary of Defense, on which 80 percent of the amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund by chapter 2 of title II of this Act have been obligated.".

**SEC. 1204. PRESIDENTIAL REPORT ON STRATEGY FOR STABILIZATION OF IRAQ.**

(a) STABILIZATION STRATEGY.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress an unclassified report (with classified annex, if necessary) on the strategy of the United States and coalition forces for stabilizing Iraq. The report shall contain a detailed explanation of the strategy, together with the following:

(1) A description of the efforts of the President to work with the United Nations to provide support for, and assistance to, the transitional government in Iraq and, in particular, the efforts of the President to negotiate and secure adoption by the United Nations Security Council of Resolution 1546.

(2) A description of the efforts of the President to continue to work with North Atlantic Treaty Organization (NATO) member states and non-NATO member states to provide support for and augment coalition forces, including—

(A) the current military forces of coalition countries deployed to Iraq;

(B) the current police forces of coalition countries deployed to Iraq;

(C) the current financial resources of coalition countries pledged and provided for the stabilization and reconstruction of Iraq; and

(D) a list of countries that have pledged to deploy military or police forces, including the schedule and level of such deployments.

(3) The strategic plan referred to in subsection (b) relating to Iraqi security forces.

(4) A description of the efforts of the United States and coalition forces to assist in the reconstruction of essential infrastructure of Iraq, including the oil industry, electricity generation, roads, schools, and hospitals.

(5) A description of the efforts of the United States, coalition partners, and relevant international agencies to assist in the development of political institutions and prepare for democratic elections in Iraq.

(6) A description of the obstacles, including financial, technical, logistic, personnel, political, and other obstacles, faced by NATO in generating and deploying military forces out of theater to locations such as Iraq.

(b) IRAQI SECURITY FORCES.—The President shall include in the report under subsection (a) a strategic plan setting forth the manner in which the coaltion will achieve the goal of establishing viable and professional Iraqi security forces able to provide for the long-term security of the Iraqi people. That strategic plan shall include at least the following:

(1) Recruiting and retention goals, shown for each service of the Iraqi security forces.

(2) Training plans for each service of the Iraqi security forces.

(3) A description of metrics by which progress toward the goal of Iraqi provision for its own security can be measured.

(4) A description of equipment needs, shown for each service of the Iraqi security forces.

(5) A resourcing plan for achieving the goals of the strategic plan.

(6) Personnel plans in terms of United States military and contractor personnel to be used in training each such service.

(7) A description of challenges faced and opportunities presented in particular regions of Iraq and a plan for addressing those challenges.

(8) A discussion of training and deployment successes and failures to the date of the report and how lessons from those successes and failures will be incorporated into the strategic plan.

(c) QUARTERLY REPORTS.—Not later than 30 days after the end of each quarter of calendar year 2005, the Secretary of Defense shall submit to the Congress a report on the actions taken under

the strategic plan set forth pursuant to subsection (b) since the date of the enactment of this Act. Each such report shall be prepared in conjunction with the Secretary of State.

**SEC. 1205. GUIDANCE ON CONTRACTORS SUPPORTING DEPLOYED FORCES IN IRAQ.**

(a) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on how the Department of Defense shall manage contractor personnel who support deployed forces and shall direct the Secretaries of the military departments to develop procedures to ensure implementation of that guidance. The guidance shall—

(1) establish policies for the use of contractors to support deployed forces;

(2) delineate the roles and responsibilities of commanders regarding the management and oversight of contractor personnel who support deployed forces; and

(3) integrate into a single document other guidance and doctrine that may affect Department of Defense responsibilities to contractors in locations where members of the Armed Forces are deployed.

(b) ISSUES TO BE ADDRESSED.—The guidance issued under subsection (a) shall address at least the following matters:

(1) Warning contractor security personnel of potentially hazardous situations.

(2) Coordinating the movement of contractor security personnel, especially through areas of increased risk or planned or ongoing military operations.

(3) Rapidly identifying contractor security personnel by members of the Armed Forces.

(4) Sharing relevant threat information with contractor security personnel and receiving information gathered by contractor security personnel for use by United States and coalition forces.

(5) Providing appropriate assistance to contractor personnel who become engaged in hostile situations.

(6) Providing medical assistance for, and evacuation of, contractor personnel who become casualties as a result of enemy actions.

(7) Investigating background and qualifications of contractor security personnel and organizations.

(8) Establishing rules of engagement for armed contractor security personnel, and ensuring proper training and compliance with the rules of engagement.

(9) Establishing categories of security, intelligence, law enforcement, and criminal justice functions that are—

(A) inherently governmental functions under Subpart 7.5 of the Federal Acquisition Regulation; or

(B) although not inherently governmental functions, should not ordinarily be performed by contractors in areas of operations.

(10) Establishing procedures for making and documenting determinations about which security, intelligence, law enforcement, and criminal justice functions will be performed by military personnel and which will be performed by private companies.

(c) REPORT.—Not later than 30 days after issuing the guidance required under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the guidance issued under subsection (a).

**SEC. 1206. REPORT ON CONTRACTORS SUPPORTING DEPLOYED FORCES AND RECONSTRUCTION EFFORTS IN IRAQ.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on contractors supporting deployed forces and reconstruction efforts in Iraq.

(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall include, at a minimum, the following matters with respect to contractors, and employees of contractors, described in subsection (a):

(1) A description of the overall chain of command and oversight mechanisms that are in place to ensure adequate command and supervision of such contractor employees in critical security roles.

(2) A description of sanctions that are available to be imposed on such a contractor employee who—

(A) fails to comply with a requirement of law or regulation that applies to such employee; or

(B) engages in other misconduct.

(3) A description of disciplinary and criminal actions brought against contractor employees during the period beginning on May 1, 2003, and ending on the date of the enactment of this Act.

(4) An explanation of the legal status of contractor employees engaged in the performance of security functions in Iraq after the transfer of sovereign power to Iraq on June 28, 2004.

(5) A specification of casualty and fatality figures for contractor employees supporting deployed forces and reconstruction efforts in Iraq, shown, to the extent practicable, in the following categories:

(A) Total casualties and total fatalities.

(B) Casualties and fatalities among—

(i) nationals of the United States;

(ii) nationals of Iraq; and

(iii) nationals of states other than the United States and Iraq.

(6) A description, to the maximum extent practicable, of incidents in which contractor employees supporting deployed forces and reconstruction efforts in Iraq have been engaged in hostile fire or other incidents of note during the period beginning on May 1, 2003, and ending on the date of the enactment of this Act.

(c) PLANS.—The Secretary shall include with the report under subsection (a) the following plans:

(1) A plan for establishing and implementing a process for collecting data on individual contractors, the value of the contracts, the number of casualties incurred, and the number

of personnel in Iraq performing the following services for the Department of Defense and other Federal agencies:

(A) Personal security details.

(B) Nonmilitary site security.

(C) Nonmilitary convoy security.

(D) Interrogation services at interrogation centers operated by the Department of Defense.

(2) A plan for ensuring that military commanders in the theater of operations have accurate information on the number, types, and sources of weapons and other critical equipment (such as body armor, armored vehicles, secure communications and friend-foe identification) that contractor personnel performing services specified in paragraph (1) are authorized to possess.

(d) COORDINATION.—In the preparation of the report under this section (including the plans under subsection (c)), the Secretary of Defense shall coordinate, as appropriate, with the head of any Federal agency that is involved in the procurement of services from contractors supporting deployed forces and reconstruction efforts in Iraq. The head of any such agency shall provide to the Secretary of Defense such information as the Secretary may require about such contractors to complete the report.

**SEC. 1207. UNITED NATIONS OIL-FOR-FOOD PROGRAM.**

(a) ACCESS TO DOCUMENTS.—It is the sense of Congress that the Secretary of State should seek to conclude a memorandum of understanding with the Interim Government of Iraq to ensure that the United States will have access to all documents in the possession of that Government related to the United Nations Oil-for-Food Program.

(b) INFORMATION FROM THE UNITED NATIONS.—(1) The Secretary of State shall use the voice and vote of the United States in the United Nations to urge the Secretary General of the United Nations to provide to the United States copies of all audits and core documents related to the United Nations Oil-for-Food Program, including all audits, examinations, studies, reviews, or similar documents prepared by the United Nations Office of Internal Oversight Services and all responses to such documents.

(2) It is the sense of Congress that, pursuant to section 941(b)(6) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427 of the 106th Congress, as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–483), the Comptroller General should have full and complete access to financial information relating to the United Nations, including information related to the financial transactions, organization, and activities of the United Nations Oil-for-Food Program.

(3) The Secretary of State shall facilitate access by the Comptroller General to the financial information described in paragraph (2).

(c) COOPERATION IN INVESTIGATIONS.—The head of any Executive agency (including the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, and the Director of the Central Intelligence Agency) shall, upon a request in connection with an investigation of the United Nations Oil-for-Food Program made by a committee of jurisdiction of the Senate or House of Representatives, promptly provide to the chairman of that committee—

(1) access to any information or document described in subsection (a) or (b) that is under the control of such agency and responsive to the request; and

(2) cooperation in gaining access to information and documents described in subsections (a) and (b) that are not under the control of such agency, as appropriate.

(d) REVIEW OF OIL-FOR-FOOD PROGRAM BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the United Nations Oil-for-Food Program, including the role of the United States in that program. The review—

(A) in accordance with generally accepted government auditing standards, should not interfere with any ongoing criminal investigation or inquiry related to that program; and

(B) may take into account the results of any investigation or inquiry related to that program.

(2) The head of each Executive agency shall fully cooperate with the review of the Comptroller General under paragraph (1).

(e) EXECUTIVE AGENCY DEFINED.—In this section, the term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

**SEC. 1208 SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.**

(a) AUTHORITY.—The Secretary of Defense may expend up to $25,000,000 during any fiscal year during which this subsection is in effect to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) PROCEDURES.—The Secretary of Defense shall establish procedures for the exercise of the authority under subsection (a). The Secretary shall notify the congressional defense committees of those procedures before any exercise of that authority.

(c) NOTIFICATION.—Upon using the authority provided in subsection (a) to make funds available for support of an approved military operation, the Secretary of Defense shall notify the congressional defense committees expeditiously, and in any event in not less than 48 hours, of the use of such authority with respect to that operation. Such a notification need be provided only once with respect to any such operation. Any such notification shall be in writing.

(d) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to make funds available under subsection (a) for support of a military operation may not be delegated.

(e) INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(f) ANNUAL REPORT.—Not later than 30 days after the close of each fiscal year during which subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on support provided under that subsection during that fiscal year. Each such report shall describe the support provided, including a statement of the recipient of the support and the amount obligated to provide the support.

(g) FISCAL YEAR 2005 LIMITATION.—Support may be provided under subsection (a) during fiscal year 2005 only from funds made

available for operations and maintenance pursuant to title XV of this Act.

(h) PERIOD OF AUTHORITY.—The authority under subsection (a) is in effect during each of fiscal years 2005 through 2007.

## Subtitle B—Counterproliferation Matters

### SEC. 1211. DEFENSE INTERNATIONAL COUNTERPROLIFERATION PROGRAMS.

(a) INTERNATIONAL SECURITY PROGRAM TO PREVENT UNAUTHORIZED TRANSFER AND TRANSPORTATION OF WMDS.—Subsection (b) of section 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2333) is amended to read as follows:

"(b) OTHER COUNTRIES.—The Secretary of Defense may carry out programs under subsection (a) in a country other than a country specified in that subsection if the Secretary determines that there exists in that country a significant threat of the unauthorized transfer and transportation of nuclear, biological, or chemical weapons or related materials.".

(b) INTERNATIONAL TRAINING PROGRAM TO DETER WMD PROLIFERATION.—Section 1504(e)(3)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2918) is amended—

(1) by striking "The training program referred to in paragraph (1)(B) is a" and inserting 'The Secretary of Defense may participate in a";

(2) by inserting "of" after "acquisition";

(3) by striking "and" after "countries,"; and

(4) by inserting before the period at the end the following: ", and in other countries in which, as determined by the Secretary of Defense, there exists a significant threat of such proliferation and acquisition".

### SEC. 1212. POLICY AND SENSE OF CONGRESS ON NONPROLIFERATION OF BALLISTIC MISSILES.

(a) FINDINGS.—Congress makes the following findings:

(1) Certain countries are seeking to acquire ballistic missiles and related technologies that could be used to attack the United States or place at risk United States interests, deployed members of the Armed Forces, and allies of the United States and other friendly foreign countries.

(2) Certain countries continue to actively transfer or sell ballistic missile technologies in contravention of standards of behavior established by the United States and allies of the United States and other friendly foreign countries.

(3) The spread of ballistic missiles and related technologies worldwide has been slowed by a combination of national and international export controls, forward-looking diplomacy, and multilateral interdiction activities to restrict the development and transfer of such missiles and technologies.

(b) POLICY.—It is the policy of the United States to develop, support, and strengthen international accords and other cooperative efforts to curtail the proliferation of ballistic missiles and related technologies which could threaten the territory of the United States, allies of the United States and other friendly foreign countries,

and deployed members of the Armed Forces of the United States with weapons of mass destruction.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should vigorously pursue foreign policy initiatives aimed at eliminating, reducing, or retarding the proliferation of ballistic missiles and related technologies; and

(2) the United States and the international community should continue to support and strengthen established international accords and other cooperative efforts, including United Nations Security Council Resolution 1540 (April 28, 2004) and the Missile Technology Control Regime, that are designed to eliminate, reduce, or retard the proliferation of ballistic missiles and related technologies.

**SEC. 1213. SENSE OF CONGRESS ON THE GLOBAL PARTNERSHIP AGAINST THE SPREAD OF WEAPONS OF MASS DESTRUCTION.**

(a) COMMENDATION OF PRESIDENT.—Congress commends the President for the steps taken at the G–8 summit at Sea Island, Georgia, on June 8–10, 2004—

(1) to demonstrate continued support for the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction; and

(2) to expand the Partnership (A) by welcoming new members, and (B) by using the Partnership to coordinate nonproliferation projects in Libya, Iraq, and other countries.

(b) FUTURE ACTIONS.—It is the sense of Congress that the President should seek to—

(1) expand the membership of donor nations to the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction;

(2) ensure that the Russian Federation remains the primary focus of the Partnership, but also seek to fund, through the Partnership, efforts in other countries that need assistance to secure or dismantle their own potentially vulnerable weapons or materials;

(3) develop for the Partnership clear program goals;

(4) develop for the Partnership transparent project prioritization and planning;

(5) develop for the Partnership project implementation milestones under periodic review;

(6) develop under the Partnership agreements between partners for project implementation; and

(7) give high priority and senior-level attention to resolving disagreements on site access and worker liability under the Partnership.

**SEC. 1214. REPORT ON COLLABORATIVE MEASURES TO REDUCE THE RISKS OF A LAUNCH OF RUSSIAN NUCLEAR WEAPONS.**

Not later than November 1, 2005, the Secretary of Defense shall submit to Congress a report on collaborative measures between the United States and the Russian Federation to reduce the risks of a launch of a nuclear-armed ballistic missile as a result of accident, misinformation, miscalculation, or unauthorized use. The report shall provide—

(1) a description and assessment of the collaborative measures that are currently in effect;

(2) a description and assessment of other collaborative measures that could be pursued in the future;

(3) an assessment of the potential contributions of such collaborative measures to the national security of the United States;

(4) an assessment of the effect of such collaborative measures on relations between the United States and the Russian Federation;

(5) a description of the obstacles and opportunities associated with pursuing such collaborative measures; and

(6) an assessment of the future of the Joint Data Exchange Center.

## Subtitle C—Other Matters

**SEC. 1221. AUTHORITY FOR HUMANITARIAN ASSISTANCE FOR THE DETECTION AND CLEARANCE OF LANDMINES EXTENDED TO INCLUDE OTHER EXPLOSIVE REMNANTS OF WAR.**

(a) EXTENSION OF AUTHORITY.—Subsection (e)(5) of section 401 of title 10, United States Code, is amended by inserting "and other explosive remnants of war" after "landmines" both places it appears.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a)(4)(A), by inserting "or other explosive remnants of war" after "landmines"; and

(2) in subsection (c)(2)(B), by striking "landmine clearing equipment or supplies" and inserting "equipment or supplies for clearing landmines or other explosive remnants of war".

**SEC. 1222. EXPANSION OF ENTITIES OF THE PEOPLE'S REPUBLIC OF CHINA SUBJECT TO CERTAIN PRESIDENTIAL AUTHORITIES WHEN OPERATING IN THE UNITED STATES.**

Section 1237(b)(4)(B)(i) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note) is amended—

(1) by inserting ", or affiliated with," after "or controlled by"; and

(2) by inserting after "the People's Liberation Army" the following: "or a ministry of the government of the People's Republic of China or that is owned or controlled by an entity affiliated with the defense industrial base of the People's Republic of China".

**SEC. 1223. ASSIGNMENT OF NATO NAVAL PERSONNEL TO SUBMARINE SAFETY PROGRAMS.**

(a) IN GENERAL.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

### "§ 7234. Submarine safety programs: participation of NATO naval personnel

"(a) ACCEPTANCE OF ASSIGNMENT OF FOREIGN NAVAL PERSONNEL.—In order to facilitate the development, standardization, and interoperability of submarine vessel safety and rescue systems and procedures, the Secretary of the Navy may conduct a program under which members of the naval service of any of the member nations of the North Atlantic Treaty Organization may be assigned

to United States commands to work on such systems and procedures.

"(b) RECIPROCITY NOT REQUIRED.—The authority under subsection (a) is not an exchange program. Reciprocal assignments of members of the Navy to the naval service of a foreign country is not a condition for the exercise of such authority.

"(c) COSTS FOR FOREIGN PERSONNEL.—(1) The United States may not pay the following costs for a member of a foreign naval service sent to the United States under the program authorized by this section:

"(A) Salary.

"(B) Per diem.

"(C) Cost of living.

"(D) Travel costs.

"(E) Cost of language or other training.

"(F) Other costs.

"(2) Paragraph (1) does not apply to the following costs, which may be paid by the United States:

"(A) The cost of temporary duty directed by the Secretary of the Navy or an officer of the Navy authorized to do so.

"(B) The cost of training programs conducted to familiarize, orient, or certify members of foreign naval services regarding unique aspects of their assignments.

"(C) Costs incident to the use of the facilities of the Navy in the performance of assigned duties.

"(d) RELATIONSHIP TO OTHER AUTHORITY.—The provisions of this section shall apply in the exercise of any authority of the Secretary of the Navy to enter into an agreement with the government of a foreign country, subject to the concurrence of the Secretary of State, to provide for the assignment of members of the naval service of the foreign country to a Navy submarine safety program. The Secretary of the Navy may prescribe regulations for the application of this section in the exercise of such authority.

"(e) TERMINATION OF AUTHORITY.—The Secretary of the Navy may not accept the assignment of a member of the naval service of a foreign country under this section after September 30, 2008.".

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

"7234. Submarine safety programs: participation of NATO naval personnel.".

**SEC. 1224. AVAILABILITY OF WARSAW INITIATIVE FUNDS FOR NEW NATO MEMBERS.**

(a) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance, defense-wide activities, and available for the Defense Security Cooperation Agency for the Warsaw Initiative Funds (WIF), $4,000,000 may be available only in fiscal year 2005 for the participation of the North Atlantic Treaty Organization (NATO) members set forth in subsection (b) in the exercises and programs of the Partnership for Peace program of the North Atlantic Treaty Organization.

(b) NATO MEMBERS.—The North Atlantic Treaty Organization members set forth in this subsection are as follows:

(1) Bulgaria.

(2) Estonia.

(3) Latvia.

(4) Lithuania.
(5) Romania.
(6) Slovakia.
(7) Slovenia.

**SEC. 1225. BILATERAL EXCHANGES AND TRADE IN DEFENSE ARTICLES AND DEFENSE SERVICES BETWEEN THE UNITED STATES AND THE UNITED KINGDOM AND AUSTRALIA.**

(a) POLICY.—It is the policy of Congress that bilateral exchanges and trade in defense articles and defense services between the United States and the United Kingdom and Australia are in the national security interest of the United States and that such exchanges and trade should be subjected to accelerated review and processing consistent with national security and the requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(b) REQUIREMENT.—The Secretary of State shall ensure that any license application submitted for the export of defense articles or defense services to Australia or the United Kingdom is expeditiously processed by the Department of State, in consultation with the Department of Defense, without referral to any other Federal department or agency, except where the item is classified or exceptional circumstances apply.

(c) REGULATIONS.—The President shall ensure that regulations are prescribed to implement this section.

**SEC. 1226. STUDY ON MISSILE DEFENSE COOPERATION.**

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense, in consultation with the Secretary of State, shall carry out a study to determine the advisability of authorizing or requiring—

(1) the Secretary of State to establish procedures for considering technical assistance agreements and related amendments and munitions license applications for the export of defense items related to missile defense not later than 30 days after receiving such agreements, amendments, and munitions license applications, except in cases in which the Secretary of State determines that additional time is required to complete a review of a technical assistance agreement or related amendment or a munitions license application for foreign policy or national security reasons, including concerns regarding the proliferation of ballistic missile technology; and

(2) the Secretary of Defense to establish procedures to increase the efficiency and transparency of the practices used by the Department of Defense to review technical assistance agreements and related amendments and munitions license applications related to international cooperation on missile defense that are referred to the Department.

(b) FEASIBILITY OF REQUIRING COMPREHENSIVE AUTHORIZATIONS FOR MISSILE DEFENSE.—In carrying out the study under subsection (a), the Secretary of Defense, in consultation with the Secretary of State, shall examine the feasibility of providing major project authorizations for programs related to missile defense similar to the comprehensive export authorization specified in section 126.14 of the International Traffic in Arms Regulations (section 126.14 of title 22, Code of Federal Regulations).

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate

and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report on the results of the study under subsection (a). The report shall include—

(1) the determinations resulting from the study, including a determination on the feasibility of providing the major project authorization for projects related to missile defense described in subsection (b); and

(2) a discussion of the justification for each such determination.

(d) DEFINITION OF DEFENSE ITEMS.—In this section, the term "defense items" has the meaning given that term in section 38(j)(4)(A) of the Arms Export Control Act (22 U.S.C. 2778(j)(4)(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. Temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.
Sec. 1304. Inclusion of descriptive summaries in annual Cooperative Threat Reduction reports and budget justification materials.

## 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 2005 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2005 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 $409,200,000 authorized to be appropriated to the Department of Defense for fiscal year 2005 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $58,522,000.

(2) For nuclear weapons storage security in Russia, $48,672,000.

(3) For nuclear weapons transportation security in Russia, $26,300,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,030,000.

(5) For chemical weapons destruction in Russia, $158,400,000.

(6) For biological weapons proliferation prevention in the former Soviet Union, $54,959,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $14,317,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2005 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) 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 2005 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 2005 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that 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 a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

**SEC. 1303. TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.**

(a) TEMPORARY AUTHORITY.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply for a calendar year for which the President submits to Congress a written certification that includes—

(1) a statement as to why a waiver of the conditions described in such section 1305 is important to the national security interests of the United States;

(2) a full and complete justification for the waiver of the conditions; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(b) EXPIRATION.—The authority in subsection (a) shall expire on December 31, 2006, and no waiver shall remain in effect after that date.

**SEC. 1304. INCLUSION OF DESCRIPTIVE SUMMARIES IN ANNUAL COOPERATIVE THREAT REDUCTION REPORTS AND BUDGET JUSTIFICATION MATERIALS.**

Section 1307 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2165; 22 U.S.C. 5952 note) is amended—

(1) in subsection (a), by striking "as part of the Secretary's annual budget request to Congress" in the matter preceding paragraph (1) and inserting "in the materials and manner specified in subsection (c)"; and

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

"(c) INCLUSION IN CERTAIN MATERIALS SUBMITTED TO CONGRESS.—The summary required to be submitted to Congress in a fiscal year under subsection (a) shall be set forth by project category, and by amounts specified in paragraphs (1) and (2) of that subsection in connection with such project category, in each of the following:

"(1) The annual report on activities and assistance under Cooperative Threat Reduction programs required in such fiscal year under section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398).

"(2) The budget justification materials submitted to Congress in support of the Department of Defense budget for the fiscal year succeeding such fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code).".

# TITLE XIV—SUNKEN MILITARY CRAFT

Sec. 1401. Preservation of title to sunken military craft and associated contents.
Sec. 1402. Prohibitions.
Sec. 1403. Permits.
Sec. 1404. Penalties.
Sec. 1405. Liability for damages.
Sec. 1406. Relationship to other laws.
Sec. 1407. Encouragement of agreements with foreign countries.
Sec. 1408. Definitions.

**SEC. 1401. PRESERVATION OF TITLE TO SUNKEN MILITARY CRAFT AND ASSOCIATED CONTENTS.**

Right, title, and interest of the United States in and to any United States sunken military craft—

(1) shall not be extinguished except by an express divestiture of title by the United States; and

(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

**SEC. 1402. PROHIBITIONS.**

(a) UNAUTHORIZED ACTIVITIES DIRECTED AT SUNKEN MILITARY CRAFT.—No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

(1) as authorized by a permit under this title;

(2) as authorized by regulations issued under this title; or

(3) as otherwise authorized by law.

(b) POSSESSION OF SUNKEN MILITARY CRAFT.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

(1) this section; or

(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

(c) LIMITATIONS ON APPLICATION.—

(1) ACTIONS BY UNITED STATES.—This section shall not apply to actions taken by, or at the direction of, the United States.

(2) FOREIGN PERSONS.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

(A) generally recognized principles of international law;

(B) an agreement between the United States and the foreign country of which the person is a citizen; or

(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

(3) LOAN OF SUNKEN MILITARY CRAFT.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

**SEC. 1403. PERMITS.**

(a) IN GENERAL.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

(b) CONSISTENCY WITH OTHER LAWS.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

(c) CONSULTATION.—In carrying out this section (including the issuance after the date of the enactment of this Act of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

(d) APPLICATION TO FOREIGN CRAFT.—At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

**SEC. 1404. PENALTIES.**

(a) IN GENERAL.—Any person who violates this title, or any regulation or permit issued under this title, shall be liable to the United States for a civil penalty under this section.

(b) ASSESSMENT AND AMOUNT.—The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than $100,000 for each violation.

(c) CONTINUING VIOLATIONS.—Each day of a continued violation of this title or a regulation or permit issued under this title shall constitute a separate violation for purposes of this section.

(d) IN REM LIABILITY.—A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

(e) OTHER RELIEF.—If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

(f) LIMITATIONS.—An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

**SEC. 1405. LIABILITY FOR DAMAGES.**

(a) IN GENERAL.—Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this title that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

(b) INCLUDED DAMAGES.—Damages referred to in subsection (a) may include—

(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this title; and

(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

**SEC. 1406. RELATIONSHIP TO OTHER LAWS.**

(a) IN GENERAL.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this title, nothing in this title is intended to affect—

(1) any activity that is not directed at a sunken military craft; or

(2) the traditional high seas freedoms of navigation, including—

(A) the laying of submarine cables and pipelines;

(B) operation of vessels;

(C) fishing; or

(D) other internationally lawful uses of the sea related to such freedoms.

(b) INTERNATIONAL LAW.—This title and any regulations implementing this title shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

(c) LAW OF FINDS.—The law of finds shall not apply to—

(1) any United States sunken military craft, wherever located; or

(2) any foreign sunken military craft located in United States waters.

(d) LAW OF SALVAGE.—No salvage rights or awards shall be granted with respect to—

(1) any United States sunken military craft without the express permission of the United States; or

(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.

(e) LAW OF CAPTURE OR PRIZE.—Nothing in this title is intended to alter the international law of capture or prize with respect to sunken military craft.

(f) LIMITATION OF LIABILITY.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes (46 U.S.C. App. 181 et seq.) or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; 46 U.S.C. App. 192), shall limit the liability of any person under this section.

(g) AUTHORITIES OF THE COMMANDANT OF THE COAST GUARD.—Nothing in this title is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

(h) PRIOR DELEGATIONS, AUTHORIZATIONS, AND RELATED REGULATIONS.—Nothing in this title shall invalidate any prior delegation, authorization, or related regulation that is consistent with this title.

(i) CRIMINAL LAW.—Nothing in this title is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

**SEC. 1407. ENCOURAGEMENT OF AGREEMENTS WITH FOREIGN COUNTRIES.**

The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this title.

**SEC. 1408. DEFINITIONS.**

In this title:

(1) ASSOCIATED CONTENTS.—The term "associated contents" means—

(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) subject to subparagraph (B), the Secretary of a military department; and

(B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.

(3) SUNKEN MILITARY CRAFT.—The term "sunken military craft" means all or any portion of—

(A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

(B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and

(C) the associated contents of a craft referred to in subparagraph (A) or (B),

if title thereto has not been abandoned or transferred by the government concerned.

(4) UNITED STATES CONTIGUOUS ZONE.—The term "United States contiguous zone" means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999.

(5) UNITED STATES INTERNAL WATERS.—The term "United States internal waters" means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

(6) UNITED STATES TERRITORIAL SEA.—The term "United States territorial sea" means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988.

(7) UNITED STATES WATERS.—The term "United States waters" means United States internal waters, the United States territorial sea, and the United States contiguous zone.

# TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Sec. 1501. Purpose.
Sec. 1502. Army procurement.
Sec. 1503. Navy and Marine Corps procurement.
Sec. 1504. Defense-wide activities procurement.
Sec. 1505. Operation and maintenance.
Sec. 1506. Defense working capital funds.
Sec. 1507. Iraq Freedom Fund.
Sec. 1508. Defense health program.
Sec. 1509. Military personnel.
Sec. 1510. Treatment as additional authorizations.
Sec. 1511. Transfer authority.

**SEC. 1501. PURPOSE.**

The purpose of this title is to authorize emergency appropriations for the Department of Defense for fiscal year 2005 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom. Funds in this title are available upon the enactment of this Act.

**SEC. 1502. ARMY PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement accounts of the Army in amounts as follows:

(1) For weapons and tracked combat vehicles, $50,000,000.
(2) For ammunition, $110,000,000.
(3) For other procurement, $755,000,000.
(4) For National Guard and Reserve equipment, $50,000,000.

**SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.**

(a) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for the Marine Corps in the amount of $150,000,000.

(b) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $30,000,000.

**SEC. 1504. DEFENSE-WIDE ACTIVITIES PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for Defense-wide procurement in the amount of $50,000,000.

**SEC. 1505. OPERATION AND MAINTENANCE.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces for expenses, not otherwise provided for, operation and maintenance, in amounts as follows:
(1) For the Army, $13,550,000,000.
(2) For the Navy, $367,000,000.
(3) For the Marine Corps, $1,665,000,000.
(4) For the Air Force, $419,000,000.
(5) For Defense-wide, $404,000,000.

**SEC. 1506. DEFENSE WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for Defense Working Capital Program in the amount of $1,478,000,000.

**SEC. 1507. IRAQ FREEDOM FUND.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the account of the Iraq Freedom Fund in amount of $3,892,000,000, to remain available for transfer to other accounts in this title until September 30, 2006. Amounts of authorization so transferred shall be merged with and be made available for the same purposes as the authorization to which transferred. Of the amounts provided in this section $1,800,000,000 shall only be used for classified programs.

(b) NOTICE TO CONGRESS.—A transfer may be made from the Iraq Freedom Fund only after the Secretary of Defense notifies the congressional defense committees with respect to the proposed transfer in writing not less than five days before the transfer is made.

**SEC. 1508. DEFENSE HEALTH PROGRAM.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, the Defense Health Program, in the amount of $780,000,000, for Operation and Maintenance.

**SEC. 1509. MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2005 a total of $1,250,000,000.

**SEC. 1510. TREATMENT AS ADDITIONAL AUTHORIZATIONS.**

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

**SEC. 1511. 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 title for fiscal year 2005 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 $1,500,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(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;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(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.—A transfer may be made under the authority of this section only after the Secretary of Defense—

(1) consults with the chairmen and ranking members of the congressional defense committees with respect to the proposed transfer; and

(2) after such consultation, notifies those committees in writing of the proposed transfer not less than five days before the transfer is made.

# DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

**SEC. 2001. SHORT TITLE.**

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2005".

# 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 2004 projects.
Sec. 2106. Modification of authority to carry out certain fiscal year 2003 project.

**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 or 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 | $23,690,000 |
| | Fort Rucker | $16,000,000 |
| Alaska | Fort Richardson | $24,300,000 |
| | Fort Wainwright | $92,459,000 |
| Arizona | Fort Huachuca | $18,000,000 |
| California | Fort Irwin | $38,100,000 |
| | Sierra Army Depot | $12,600,000 |
| Colorado | Fort Carson | $59,508,000 |
| Florida | Camp Rudder | $1,850,000 |
| Georgia | Fort Benning | $71,777,000 |
| | Fort Gillem | $5,800,000 |
| | Fort McPherson | $4,900,000 |
| | Fort Stewart/Hunter Army Air Field | $65,495,000 |
| Hawaii | Helemano Military Reservation | $75,300,000 |
| | Hickam Air Force Base | $11,200,000 |
| | Schofield Barracks | $249,792,000 |
| Kansas | Fort Riley | $59,550,000 |
| Kentucky | Fort Campbell | $89,600,000 |
| | Fort Knox | $75,750,000 |
| Louisiana | Fort Polk | $70,953,000 |
| Maryland | Aberdeen Proving Ground | $13,000,000 |
| | Fort Detrick | $4,000,000 |
| Missouri | Fort Leonard Wood | $31,850,000 |
| New Jersey | Picatinny Arsenal | $9,900,000 |
| New Mexico | White Sands Missile Range | $33,000,000 |
| New York | Fort Drum | $13,650,000 |
| | Fort Hamilton | $7,600,000 |
| | Hancock Field | $6,000,000 |
| | Military Entrance Processing Station, Buffalo | $6,200,000 |
| | United States Military Academy, West Point | $60,000,000 |
| North Carolina | Fort Bragg | $111,687,000 |
| Oklahoma | Fort Sill | $17,800,000 |
| Pennsylvania | Letterkenny Depot | $5,400,000 |
| Texas | Fort Bliss | $19,400,000 |
| | Fort Hood | $85,188,000 |
| | Fort Sam Houston | $11,400,000 |
| Virginia | Fort A.P. Hill | $10,775,000 |
| | Fort Lee | $4,250,000 |
| | Fort Myer | $49,526,000 |
| Washington | Fort Lewis | $56,200,000 |
| | Total | $1,623,450,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or 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 | Grafenwoehr | $77,200,000 |
| Italy | Livorno | $26,000,000 |
| Korea | Camp Humphreys | $12,000,000 |
| | Total | $115,200,000 |

**SEC. 2102. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes, and in the amounts set forth in the following table:

**Army: Family Housing**

| State | Installation or Location | Purpose | Amount |
|---|---|---|---|
| Alaska | Fort Richardson | 92 Units | $42,000,000 |
| | Fort Wainwright | 246 Units | $124,000,000 |
| Arizona | Fort Huachuca | 205 Units | $41,000,000 |
| | Yuma Proving Ground | 55 Units | $14,900,000 |
| Kansas | Fort Riley | 126 Units | $33,000,000 |
| New Mexico | White Sands Missile Range | 156 Units | $31,000,000 |
| Oklahoma | Fort Sill | 247 Units | $47,000,000 |
| Virginia | Fort Lee | 218 Units | $46,000,000 |
| | Fort Monroe | 68 Units | $16,000,000 |
| | Total | | $394,900,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(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 $29,209,000.

**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)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $211,990,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and

military family housing functions of the Department of the Army in the total amount of $3,537,141,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,453,950,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $115,200,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $20,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $151,335,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $636,099,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $926,507,000.

(6) For the construction of phase 2 of a barracks complex, 5th & 16th Street, at Fort Stewart/Hunter Army Air Field, Georgia, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $32,950,000.

(7) For the construction of phase 3 of a barracks complex renewal, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1283), as amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(8) For the construction of phase 2 of the Lewis & Clark instructional facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $44,000,000.

(9) For the construction of phase 2 of a barracks complex at Wheeler Sack Army Air Field at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(10) For the construction of phase 2 of a barracks complex, Bastogne Drive, Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(11) For the construction of phase 3 of a maintenance complex at Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $13,100,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $41,000,000 (the balance of the amount authorized under section 2101(a) to upgrade Drum Road, Helemano Military Reservation, Hawaii).

(3) $25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a vehicle maintenance facility, Schofield Barracks, Hawaii).

(4) $25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Fort Campbell, Kentucky).

(5) $22,000,000 (the balance of the amount authorized under section 2101(a) for construction of trainee barracks, Basic Training Complex 1, Fort Knox, Kentucky).

(6) $25,500,000 (the balance of the amount authorized under section 2101(a) for construction of a library and learning facility, United States Military Academy, West Point, New York).

(7) $31,000,000 (the balance of the amount authorized under section 2101(a) for a barracks complex renewal project, Fort Bragg, North Carolina).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $5,550,000, which represents prior year savings.

**SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECTS.**

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697) is amended—

(1) in the item relating to Fort Stewart/Hunter Army Air Field, Georgia, by striking "$113,500,000" in the amount column and inserting "$114,450,000";

(2) in the item relating to Fort Drum, New York, by striking "$130,700,000" in the amount column and inserting "$135,700,000"; and

(3) by striking the amount identified as the total in the amount column and inserting "$1,043,150,000".

(b) CONFORMING AMENDMENTS.—Section 2104(b) of that Act (117 Stat. 1700) is amended—

(1) in paragraph (2), by striking "$32,000,000" and inserting "$32,950,000"; and

(2) in paragraph (4), by striking "$43,000,000" and inserting "$48,000,000".

**SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECT.**

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), as amended by section 2105(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1700), is further amended—

(1) in the item relating to Fort Sill, Oklahoma, by striking "$39,652,000" in the amount column and inserting "$40,752,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,157,267,000".

(b) CONFORMING AMENDMENT.—Section 2104(b)(6) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2684) is amended by striking "$25,000,000" and inserting "$26,100,000".

# 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. 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 or 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 | $26,670,000 |
| California | Marine Corps Air-Ground Task Force Training Center, Twentynine Palms | $15,700,000 |
| | Marine Corps Air Station, Camp Pendleton | $11,540,000 |
| | Marine Corps Base, Camp Pendleton | $26,915,000 |
| | Marine Corps Logistics Base, Barstow | $4,930,000 |
| | Naval Air Facility, El Centro | $54,331,000 |
| | Naval Air Station, North Island | $10,180,000 |
| | Naval Surface Warfare Center, Division Corona | $9,850,000 |
| | Recruit Depot San Diego | $8,110,000 |
| Connecticut | Naval Submarine Base, New London | $50,302,000 |
| District of Columbia | Naval Observatory, Washington | $3,239,000 |
| Florida | Eglin Air Force Base | $2,060,000 |
| | Naval Station, Mayport | $6,200,000 |
| Georgia | Strategic Weapons Facility Atlantic, Kings Bay | $16,000,000 |
| Hawaii | Naval Shipyard, Pearl Harbor | $5,100,000 |
| Illinois | Naval Training Center, Great Lakes | $74,781,000 |
| Indiana | Naval Surface Warfare Center, Crane | $12,600,000 |
| Maine | Naval Air Station, Brunswick | $6,220,000 |
| Maryland | Naval Surface Warfare Center, Indian Head | $23,000,000 |
| North Carolina | Marine Corps Air Station, New River | $35,140,000 |
| | Marine Corps Base, Camp Lejeune | $11,030,000 |
| | Navy Outlying Landing Field, Washington County | $136,900,000 |
| Nevada | Naval Air Station, Fallon | $4,980,000 |
| Rhode Island | Naval Air Station, Newport | $5,490,000 |
| South Carolina | Marine Corps Air Station, Beaufort | $5,480,000 |
| | Naval Weapons Station, Charleston | $12,209,000 |

**Navy: Inside the United States**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| Virginia | Camp Elmore Marine Corps Detachment | $13,500,000 |
| | Marine Corps Air Facility, Quantico | $73,838,000 |
| | Marine Corps Combat Development Command, Quantico | $25,090,000 |
| | Naval Air Station, Oceana | $2,770,000 |
| | Naval Amphibious Base, Little Creek | $9,220,000 |
| | Naval Station, Norfolk | $4,330,000 |
| | Naval Weapons Station, Yorktown | $9,870,000 |
| Washington | Naval Air Station, Whidbey Island | $1,990,000 |
| | Naval Shipyard, Puget Sound | $20,305,000 |
| | Naval Station, Bremerton | $74,125,000 |
| | Strategic Weapons Facility Pacific, Bangor | $138,060,000 |
| | Total | $952,055,000 |

(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 installations or 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 |
|---|---|---|
| Diego Garcia | Naval Support Facility, Diego Garcia | $17,500,000 |
| Guam | Naval Public Works Center, Guam | $20,700,000 |
| | Naval Station, Guam | $12,500,000 |
| Italy | Sigonella | $22,550,000 |
| Spain | Naval Station, Rota | $32,700,000 |
| | Total | $105,950,000 |

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(3), the Secretary of the Navy may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

**Navy: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| | Unspecified Worldwide | $105,982,000 |
| | Total | $105,982,000 |

**SEC. 2202. FAMILY HOUSING.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installation, for the purpose, and in the amount set forth in the following table:

**Navy: Family Housing**

| State | Installation | Purpose | Amount |
|---|---|---|---|
| North Carolina .. | Marine Corps Air Station, Cherry Point ..... | 198 Units ..... | $27,002,000 |
| | Total ..... | ..... | $27,002,000 |

**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)(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $112,105,000.

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,897,245,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $712,927,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $94,950,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2201(c), $40,000,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $87,067,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $139,107,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $696,304,000.

(7) For the construction of increment 2 of the tertiary sewage treatment plant at Marine Corps Base, Camp Pendleton, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1703), $25,690,000.

(8) For the construction of increment 2 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $49,200,000.

(9) For the construction of increment 2 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $40,000,000.

(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 the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $21,000,000 (the balance of the amount authorized under section 2201(a) for apron and hangar recapitalization, Naval Air Facility, El Centro, California).

(3) $116,750,000 (the balance of the amount authorized under section 2201(a) for land acquisition for an outlying landing field in Washington County, North Carolina).

(4) $34,098,000 (the balance of the amount authorized under section 2201(a) for construction of a White Side complex, Marine Corps Air Facility, Quantico, Virginia).

(5) $40,000,000 (the balance of the amount authorized under section 2201(a) for construction of bachelor enlisted quarters, Naval Station, Bremerton, Washington).

(6) $95,320,000 (the balance of the amount authorized under section 2201(a) for construction of a limited area processing and storage complex, Strategic Weapons Facility Pacific, Bangor, Washington).

(7) $65,982,000 (the balance of the amount authorized under section 2201(c) for construction of a presidential helicopter programs support facility at an unspecified location).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (9) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $5,549,000, which represents prior year savings.

# 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. 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 or 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 |
|---|---|---|
| Alaska | Elmendorf Air Force Base | $52,057,000 |
| Arizona | Davis-Monthan Air Force Base | $17,029,000 |
| | Luke Air Force Base | $17,900,000 |
| Arkansas | Little Rock Air Force Base | $8,931,000 |
| California | Beale Air Force Base | $10,186,000 |
| | Edwards Air Force Base | $9,965,000 |
| | Travis Air Force Base | $18,894,000 |
| Colorado | Buckley Air Force Base | $12,247,000 |
| Delaware | Dover Air Force Base | $9,500,000 |
| Florida | Tyndall Air Force Base | $27,614,000 |

**Air Force: Inside the United States**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| | Patrick Air Force Base | $8,800,000 |
| Georgia | Moody Air Force Base | $9,600,000 |
| | Robins Air Force Base | $21,900,000 |
| Hawaii | Hickam Air Force Base | $30,900,000 |
| | Maui Site | $7,500,000 |
| Louisiana | Barksdale Air Force Base | $13,800,000 |
| Maryland | Andrews Air Force Base | $17,100,000 |
| Mississippi | Columbus Air Force Base | $7,700,000 |
| Missouri | Whiteman Air Force Base | $7,600,000 |
| Montana | Malmstrom Air Force Base | $5,600,000 |
| Nebraska | Offutt Air Force Base | $6,221,000 |
| New Mexico | Cannon Air Force Base | $9,500,000 |
| | Kirtland Air Force Base | $9,200,000 |
| North Carolina | Pope Air Force Base | $15,150,000 |
| North Dakota | Minot Air Force Base | $8,900,000 |
| Ohio | Wright-Patterson Air Force Base | $9,904,000 |
| Oklahoma | Altus Air Force Base | $7,000,000 |
| | Tinker Air Force Base | $8,000,000 |
| South Carolina | Shaw Air Force Base | $7,000,000 |
| South Dakota | Ellsworth Air Force Base | $9,867,000 |
| Tennessee | Arnold Air Force Base | $24,500,000 |
| Texas | Dyess Air Force Base | $14,300,000 |
| | Lackland Air Force Base | $2,596,000 |
| | Laughlin Air Force Base | $6,900,000 |
| | Sheppard Air Force Base | $50,284,000 |
| Utah | Hill Air Force Base | $25,713,000 |
| Wyoming | F.E. Warren Air Force Base | $5,500,000 |
| | Total | $535,358,000 |

(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 or 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 Base | $25,404,000 |
| Greenland | Thule Air Base | $19,800,000 |
| Guam | Andersen Air Force Base | $19,593,000 |
| Italy | Aviano Air Base | $6,760,000 |
| Korea | Kunsan Air Base | $37,100,000 |
| | Osan Air Base | $18,600,000 |
| Portugal | Lajes Field, Azores | $5,689,000 |
| Spain | Naval Station, Rota | $14,153,000 |
| United Kingdom | Royal Air Force Lakenheath | $5,500,000 |
| | Total | $152,599,000 |

(c) UNSPECIFIED WORLDWIDE.—Using 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 unspecified installations or locations, and in the amounts, set forth in the following table:

## Air Force: Unspecified Worldwide

| Location | Installation or Location | Amount |
|---|---|---|
| | Classified Locations | $26,121,000 |
| | Unspecified Worldwide | $28,090,000 |
| | Total | $54,211,000 |

**SEC. 2302. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes, and in the amounts set forth in the following table:

## Air Force: Family Housing

| State | Installation or Location | Purpose | Amount |
|---|---|---|---|
| Arizona | Davis-Monthan Air Force Base | 250 Units | $48,500,000 |
| California | Edwards Air Force Base | 218 Units | $41,202,000 |
| | Vandenberg Air Force Base | 120 Units | $30,906,000 |
| Florida | MacDill Air Force Base | 61 Units | $21,723,000 |
| | MacDill Air Force Base | Housing Maintenance Facility | $1,250,000 |
| Idaho | Mountain Home Air Force Base | 147 Units | $39,333,000 |
| Mississippi | Columbus Air Force Base | Housing Management Facility | $711,000 |
| Missouri | Whiteman Air Force Base | 160 Units | $37,087,000 |
| Montana | Malmstrom Air Force Base | 115 Units | $29,910,000 |
| North Carolina | Seymour Johnson Air Force Base | 167 Units | $32,693,000 |
| North Dakota | Grand Forks Air Force Base | 90 Units | $26,169,000 |
| | Minot Air Force Base | 142 Units | $37,087,000 |
| South Carolina | Charleston Air Force Base | Fire Station | $1,976,000 |
| South Dakota | Ellsworth Air Force Base | 75 Units | $21,482,000 |
| Texas | Dyess Air Force Base | 127 Units | $28,664,000 |
| | Goodfellow Air Force Base | 127 Units | $20,604,000 |
| Germany | Ramstein Air Base | 144 Units | $57,691,000 |
| Italy | Aviano Air Base | Housing Office | $2,542,000 |
| Korea | Osan Air Base | 117 Units | $46,834,000 |
| United Kingdom | Royal Air Force Lakenheath | 154 Units | $43,976,000 |
| | Total | | $570,340,000 |

(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 $38,266,000.

**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 $238,353,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,559,768,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $525,358,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $142,771,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $54,211,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $13,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $124,085,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $846,959,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $853,384,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $10,000,000 (the balance of the amount authorized under section 2301(a) for construction of a hanger for an aircraft maintenance unit, Tyndall Air Force Base, Florida).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $5,550,000, which represents prior year savings.

# TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Improvements to military family housing units.
Sec. 2403. Energy conservation projects.
Sec. 2404. Authorization of appropriations, Defense Agencies.

**SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or 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 Intelligence Agency | Bolling Air Force Base, District of Columbia | $6,000,000 |
| Defense Logistics Agency | Defense Distribution Depot, New Cumberland, Pennsylvania | $22,300,000 |
| | Defense Distribution Depot, Richmond, Virginia | $10,100,000 |
| | Defense Fuel Support Point, Naval Air Station, Oceana, Virginia | $3,589,000 |
| | Marina Corps Air Station, Cherry Point, North Carolina | $22,700,000 |
| | Naval Air Station, Kingsville, Texas | $3,900,000 |
| | Naval Station, Pearl Harbor, Hawaii | $3,500,000 |
| | Tinker Air Force Base, Oklahoma | $5,400,000 |
| | Travis Air Force Base, California | $15,100,000 |
| Missile Defense Agency | Redstone Arsenal, Alabama | $19,560,000 |
| National Security Agency | Fort Meade, Maryland | $15,007,000 |
| Special Operations Command | Corona, California | $13,600,000 |
| | Fleet Combat Training Center, Dam Neck, Virginia | $5,700,000 |
| | Fort A.P. Hill, Virginia | $1,500,000 |
| | Fort Bragg, North Carolina | $42,888,000 |
| | Fort Campbell, Kentucky | $3,500,000 |
| | Fort Stewart/Hunter Army Air Field, Georgia | $17,600,000 |
| | Hurlburt Field, Florida | $2,500,000 |
| | Naval Amphibious Base, Little Creek, Virginia | $33,200,000 |
| | Niland, California | $1,000,000 |
| TRICARE Management Activity | Buckley Air Force Base, Colorado | $2,100,000 |
| | Defense Language Institute, Presidio, Monterey | $6,700,000 |
| | Fort Belvoir, Virginia | $100,000,000 |
| | Fort Benning, Georgia | $7,100,000 |
| | Langley Air Force Base, Virginia | $50,800,000 |
| | Marine Corps Recruit Depot, Parris Island, South Carolina | $25,000,000 |
| | Naval Air Station, Jacksonville, Florida | $28,438,000 |
| | Total | $468,782,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or 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 | Grafenwoehr, Germany | $36,247,000 |
| | Naval Station, Guam | $26,964,000 |
| | Vilseck, Germany | $9,011,000 |
| Defense Logistics Agency | Defense Fuel Support Point, Lajes Field, Portugal | $19,113,000 |
| Special Operations Command | Naval Station, Guam, Mariana Islands | $2,200,000 |
| TRICARE Management Activity | Diego Garcia | $3,800,000 |
| | Grafenwoehr, Germany | $13,000,000 |
| | Total | $110,335,000 |

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(3), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations, and in the amounts, set forth in the following table:

**Defense Agencies: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| Special Operations Command | Classified Locations | $7,400,000 |
| | Unspecified Worldwide | $2,900,000 |
| | Total | $10,300,000 |

**SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $49,000.

**SEC. 2403. ENERGY CONSERVATION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(7), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $50,000,000.

**SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, 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 $1,055,663,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $411,782,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $110,335,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2401(c), $10,300,000.

(4) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $20,938,000.

(5) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $62,182,000.

(7) For energy conservation projects authorized by section 2403 of this Act, $50,000,000.

(8) 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), $246,116,000.

(9) For military family housing functions:

(A) For improvement of military family housing and facilities, $49,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $49,575,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,500,000.

(10) For the construction of phase 6 of an ammunition demilitarization facility at Pueblo Depot Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $44,792,000.

(11) For the construction of phase 5 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act of 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $37,094,000.

(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 sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(2) $57,000,000 (the balance of the amount authorized under section 2401(a) for hospital replacement, Fort Belvoir, Virginia).

# 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, 2004, 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 $160,800,000.

# TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

**SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, 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, $434,363,000; and

(B) for the Army Reserve, $90,310,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $48,185,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $233,518,000; and

(B) for the Air Force Reserve, $122,756,000.

# 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 2002 projects.
Sec. 2703. Extension and renewal of authorizations of certain fiscal year 2001 projects.

**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, 2007; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2008.

(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, 2007; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2008 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 2002 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), authorizations set forth in the tables in subsection (b), as provided in section 2101, 2302, or 2601 of that Act, shall remain in effect until October 1, 2005, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Army: Extension of 2002 Project Authorizations**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| Alaska | Fort Wainwright | Power plant cooling tower | $23,000,000 |
| Hawaii | Pohakuloa Training Facility | Parker Ranch land acquisition | $1,500,000 |

**Air Force: Extension of 2002 Project Authorizations**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| Colorado | Buckley Air Force Base | Family housing (55 Units) | $11,400,000 |
| Louisiana | Barksdale Air Force Base | Family housing (56 Units) | $7,300,000 |

**Army National Guard: Extension of 2002 Project Authorization**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| California | Lancaster | Readiness Center | $4,530,000 |

**SEC. 2703. EXTENSION AND RENEWAL OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2001 PROJECTS.**

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–407)), authorizations set forth in the tables in subsection (b), as provided in section 2102 or 2401 of that Act and, in the case of the authorization set forth in the first table in subsection (b), extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1716), shall remain in effect until October 1, 2005, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Army: Extension of 2001 Project Authorization**

| State | Installation or Location | Project | Amount |
|---|---|---|---|
| South Carolina | Fort Jackson | Family housing (1 unit) | $250,000 |

**Defense Agencies: Renewal of 2001 Project Authorization**

| Agency | Installation or Location | Project | Amount |
|---|---|---|---|
| Defense Education Activity | Osan Air Base, Korea | Osan Elementary School addition | $843,000 |

# TITLE XXVIII—GENERAL PROVISIONS


**Subtitle A—Military Construction Program and Military Family Housing Changes**

Sec. 2801. Modification of approval and notice requirements for facility repair projects.
Sec. 2802. Reporting requirements regarding military family housing requirements for general officers and flag officers.
Sec. 2803. Congressional notification of deviations from authorized cost variations for military construction projects and military family housing projects.
Sec. 2804. Assessment of vulnerability of military installations to terrorist attack and annual report on military construction requirements related to antiterrorism and force protection.
Sec. 2805. Repeal of limitations on use of alternative authority for acquisition and improvement of military housing.
Sec. 2806. Additional reporting requirements relating to alternative authority for acquisition and improvement of military housing.
Sec. 2807. Temporary authority to accelerate design efforts for military construction projects carried out using design-build selection procedures.
Sec. 2808. Notification thresholds and requirements for expenditures or contributions for acquisition of facilities for reserve components.
Sec. 2809. Authority to exchange reserve component facilities to acquire replacement facilities.
Sec. 2810. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
Sec. 2811. Consideration of combination of military medical treatment facilities and health care facilities of Department of Veterans Affairs.

**Subtitle B—Real Property and Facilities Administration**

Sec. 2821. Reorganization of existing administrative provisions relating to real property transactions.
Sec. 2822. Development of Heritage Center for the National Museum of the United States Army.
Sec. 2823. Elimination of reversionary interests clouding United States title to property used as Navy homeports.

**Subtitle C—Base Closure and Realignment**

Sec. 2831. Establishment of specific deadline for submission of revisions to force-structure plan and infrastructure inventory.
Sec. 2832. Specification of final selection criteria for 2005 base closure round.
Sec. 2833. Repeal of authority of Secretary of Defense to recommend that installations be placed in inactive status.
Sec. 2834. Voting requirements for Defense Base Closure and Realignment Commission to add to or otherwise expand closure and realignment recommendations made by Secretary of Defense.

**Subtitle D—Land Conveyances**

PART I—ARMY CONVEYANCES

Sec. 2841. Land conveyance, Sunflower Army Ammunition Plant, Kansas.
Sec. 2842. Land exchange, Fort Campbell, Kentucky and Tennessee.
Sec. 2843. Land conveyance, Louisiana Army Ammunition Plant, Doyline, Louisiana.
Sec. 2844. Land conveyance, Fort Leonard Wood, Missouri.
Sec. 2845. Transfer of administrative jurisdiction, Defense Supply Center, Columbus, Ohio.
Sec. 2846. Jurisdiction and utilization of former public domain lands, Umatilla Chemical Depot, Oregon.
Sec. 2847. Modification of authority for land conveyance, equipment and storage yard, Charleston, South Carolina.
Sec. 2848. Land conveyance, Fort Hood, Texas.
Sec. 2849. Land conveyance, local training area for Browning Army Reserve Center, Utah.
Sec. 2850. Land conveyance, Army Reserve Center, Hampton, Virginia.
Sec. 2851. Land conveyance, Army National Guard Facility, Seattle, Washington.
Sec. 2852. Modification of land exchange and consolidation, Fort Lewis, Washington.

PART II—NAVY CONVEYANCES

Sec. 2861. Land exchange, former Richmond Naval Air Station, Florida.

Sec. 2862. Land conveyance, Honolulu, Hawaii.
Sec. 2863. Land conveyance, Navy property, former Fort Sheridan, Illinois.
Sec. 2864. Land exchange, Naval Air Station, Patuxent River, Maryland.
Sec. 2865. Modification of land acquisition authority, Perquimans County, North Carolina.
Sec. 2866. Land conveyance, Naval Weapons Station, Charleston, South Carolina.
Sec. 2867. Land conveyance, Navy YMCA building, Portsmouth, Virginia.

PART III—AIR FORCE CONVEYANCES

Sec. 2871. Land exchange, Maxwell Air Force Base, Alabama.
Sec. 2872. Land conveyance, March Air Force Base, California.
Sec. 2873. Land conveyance, former Griffiss Air Force Base, New York.

PART IV—OTHER CONVEYANCES

Sec. 2881. Land exchange, Arlington County, Virginia.

**Subtitle E—Other Matters**

Sec. 2891. One-year resumption of Department of Defense Laboratory Revitalization Demonstration Program.
Sec. 2892. Designation of Airmen Leadership School at Luke Air Force Base, Arizona, in honor of John J. Rhodes, a former minority leader of the House of Representatives.
Sec. 2893. Settlement of claim of Oakland Base Reuse Authority and Redevelopment Agency.
Sec. 2894. Report on establishment of mobilization station at Camp Ripley National Guard Training Center, Little Falls, Minnesota.
Sec. 2895. Report on feasibility of establishment of veterans memorial at Marine Corps Air Station, El Toro, California.
Sec. 2896. Sense of Congress regarding effect of military housing policies and force structure and basing changes on local educational agencies.
Sec. 2897. Sense of Congress and study regarding memorial honoring non-United States citizens killed in the line of duty while serving in the United States Armed Forces.

# Subtitle A—Military Construction Program and Military Family Housing Changes

**SEC. 2801. MODIFICATION OF APPROVAL AND NOTICE REQUIREMENTS FOR FACILITY REPAIR PROJECTS.**

(a) INCREASE IN THRESHOLD FOR APPROVAL REQUIREMENT.—Subsection (b) of section 2811 of title 10, United States Code, is amended by striking "$5,000,000" and inserting "$7,500,000".

(b) DECREASE IN THRESHOLD FOR CONGRESSIONAL NOTIFICATION.—Subsection (d) of such section is amended by striking "$10,000,000" and inserting "$7,500,000".

(c) INFORMATION REQUIRED IN COST ESTIMATE FOR MULTI-YEAR PROJECTS.—Subsection (d)(1) of such section is amended by inserting before the semicolon the following: ", including, in the case of a multi-year repair project to a single facility, the total cost of all phases of the project".

**SEC. 2802. REPORTING REQUIREMENTS REGARDING MILITARY FAMILY HOUSING REQUIREMENTS FOR GENERAL OFFICERS AND FLAG OFFICERS.**

(a) REPORTS ON COST OF GENERAL AND FLAG OFFICERS QUARTERS.—Section 2831 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) REPORTS ON COST OF GENERAL OFFICERS AND FLAG OFFICERS QUARTERS.—(1) As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense shall submit a report—

"(A) identifying each family housing unit used, or intended for use, as quarters for a general officer or flag officer for which the total operation, maintenance, and repair costs for the unit are anticipated to exceed $35,000 in the next fiscal year; and

"(B) for each family housing unit so identified, specifying the total of such anticipated operation, maintenance, and repair costs for the unit.

"(2) Not later than 120 days after the end of each fiscal year, the Secretary of Defense shall submit to the congressional defense committees a report specifying, for each family housing unit used as quarters for a general officer or flag officer at any time during that fiscal year, the total expenditures for operation and maintenance, utilities, lease, and repairs of the unit during that fiscal year.".

(b) NOTICE AND WAIT REQUIREMENT.—Such section is further amended by inserting after subsection (e), as added by subsection (a), the following new subsection:

"(f) NOTICE AND WAIT REQUIREMENT.—(1) Except as provided in paragraphs (2) and (3), the Secretary concerned may not carry out a maintenance or repair project for a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the project will or may result in the total operation, maintenance, and repair costs for the unit for the fiscal year to exceed $35,000, until—

"(A) the Secretary concerned submits to the congressional defense committees, in writing, a justification of the need for the maintenance or repair project and an estimate of the cost of the project; and

"(B) a period of 21 days has expired following the date on which the justification and estimate are received by the committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and estimate are provided in an electronic medium pursuant to section 480 of this title.

"(2) The project justification and cost estimate required by paragraph (1)(A) may be submitted after the commencement of a maintenance or repair project for a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the project is a necessary enviromental remediation project for the unit or is necessary for occupant safety or security, and the need for the project arose after the submission of the most recent report under subsection (e).

"(3) Paragraph (1) shall not apply in the case of a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the unit was identified in the most recent report submitted under subsection (e) and the cost of the maintenance or repair project was included in the total of anticipated operation, maintenance, and repair costs for the unit specified in the report.".

(c) REPORT ON NEED FOR GENERAL AND FLAG OFFICERS QUARTERS IN NATIONAL CAPITAL REGION.—Not later than March 30, 2005, the Secretary of Defense shall submit to the congressional defense committees a report containing an analysis of anticipated needs in the National Capital Region for family housing units for general officers and flag officers. In conducting the analysis, the Secretary shall consider the extent of available housing in

the National Capital Region and the necessity of providing housing for general officers and flag officers in secure locations.

(d) REPORT ON CURRENT WORLD-WIDE INVENTORY OF GENERAL AND FLAG OFFICERS QUARTERS.—Not later than March 30, 2005, the Secretary of Defense shall submit to the congressional defense committees a report—

(1) containing a worldwide inventory of family housing units used, or intended for use, for general officers and flag officers; and

(2) identifying annual expenditures for fiscal years 2002, 2003, and 2004 for operation and maintenance, utilities, leases, and repairs of each unit.

(e) DEFINITIONS.—In this section:

(1) The terms "general officer" and "flag officer" have the meanings given such terms in section 101(b) of title 10, United States Code.

(2) The term "National Capital Region" has the meaning given such term in section 2674(f) of such title.

**SEC. 2803. CONGRESSIONAL NOTIFICATION OF DEVIATIONS FROM AUTHORIZED COST VARIATIONS FOR MILITARY CONSTRUCTION PROJECTS AND MILITARY FAMILY HOUSING PROJECTS.**

Section 2853(c)(3) of title 10, United States Code, is amended by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

**SEC. 2804. ASSESSMENT OF VULNERABILITY OF MILITARY INSTALLATIONS TO TERRORIST ATTACK AND ANNUAL REPORT ON MILITARY CONSTRUCTION REQUIREMENTS RELATED TO ANTITERRORISM AND FORCE PROTECTION.**

(a) ANNUAL ASSESSMENT AND REPORT.—(1) Chapter 169 of title 10, United States Code, is amended by inserting after section 2858 the following new section:

**"§ 2859. Construction requirements related to antiterrorism and force protection**

"(a) ANTITERRORISM AND FORCE PROTECTION GUIDANCE AND CRITERIA.—The Secretary of Defense shall develop common guidance and criteria to be used by each Secretary concerned—

"(1) to assess the vulnerability of military installations located inside and outside of the United States to terrorist attack;

"(2) to develop construction standards designed to reduce the vulnerability of structures to terrorist attack and improve the security of the occupants of such structures;

"(3) to prepare and carry out military construction projects, such as gate and fenceline construction, to improve the physical security of military installations; and

"(4) to assist in prioritizing such projects within the military construction budget of each of the armed forces.

"(b) VULNERABILITY ASSESSMENTS.—The Secretary of Defense shall require vulnerability assessments of military installations to be conducted, at regular intervals, using the criteria developed under subsection (a).

"(c) MILITARY CONSTRUCTION REQUIREMENTS.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report, in both classified and unclassified form, describing—

"(1) the location and results of the vulnerability assessments conducted under subsection (b) during the most recently completed fiscal year;

"(2) the military construction requirements anticipated to be necessary during the period covered by the then-current future-years defense plan under section 221 of this title to improve the physical security of military installations; and

"(3) the extent to which funds to meet those requirements are not requested in the Department of Defense budget for the fiscal year for which the budget is submitted.".

(2) The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by inserting after the item relating to section 2858 the following new item:

"2859. Construction requirements related to antiterrorism and force protection.".

(b) SPECIAL REQUIREMENT FOR 2006 REPORT.—In the case of the report required to be submitted in 2006 under section 2859(c) of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall include a certification by the Secretary that since September 11, 2001, assessments regarding the vulnerability of military installations to terrorist attack have been undertaken for all major military installations. The Secretary shall indicate the basis by which the Secretary differentiated between major and nonmajor military installations for purposes of making the certification.

**SEC. 2805. REPEAL OF LIMITATIONS ON USE OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.**

(a) REPEAL OF BUDGET AUTHORITY LIMITATION ON USE OF AUTHORITY.—Section 2883 of title 10, United States Code, is amended by striking subsection (g).

(b) REPEAL OF TERMINATION DATE ON USE OF AUTHORITY.—(1) Section 2885 of such title is repealed.

(2) The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended by striking the item relating to section 2885.

**SEC. 2806. ADDITIONAL REPORTING REQUIREMENTS RELATING TO ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.**

(a) PROJECT REPORTS.—Paragraph (2) of subsection (a) of section 2884 of title 10, United States Code, is amended to read as follows:

"(2) For each proposed contract, conveyance, or lease described in paragraph (1), the report required by such paragraph shall include the following:

"(A) A description of the contract, conveyance, or lease, including a summary of the terms of the contract, conveyance, or lease.

"(B) A description of the authorities to be utilized in entering into the contract, conveyance, or lease and the

intended method of participation of the United States in the contract, conveyance, or lease, including a justification of the intended method of participation.

"(C) A statement of the scored cost of the contract, conveyance, or lease, as determined by the Office of Management and Budget.

"(D) A statement of the United States funds required for the contract, conveyance, or lease and a description of the source of such funds.

"(E) An economic assessment of the life cycle costs of the contract, conveyance, or lease, including an estimate of the amount of United States funds that would be paid over the life of the contract, conveyance, or lease from amounts derived from payments of government allowances, including the basic allowance for housing under section 403 of title 37, if the housing affected by the project were fully occupied by military personnel over the life of the contract, conveyance, or lease.".

(b) ANNUAL REPORTS.—Subsection (b) of such section is amended—

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

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

"(5) A report setting forth, by armed force—

"(A) an estimate of the amounts of basic allowance for housing under section 403 of title 37 that will be paid, during the current fiscal year and the fiscal year for which the budget is submitted, to members of the armed forces living in housing provided under the authorities in this subchapter; and

"(B) the number of units of military family housing and military unaccompanied housing upon which the estimate under subparagraph (A) for the current fiscal year and the next fiscal year is based.".

**SEC. 2807. TEMPORARY AUTHORITY TO ACCELERATE DESIGN EFFORTS FOR MILITARY CONSTRUCTION PROJECTS CARRIED OUT USING DESIGN-BUILD SELECTION PROCEDURES.**

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

"(f) SPECIAL AUTHORITY FOR MILITARY CONSTRUCTION PROJECTS.—(1) The Secretary of a military department may use funds available to the Secretary under section 2807(a) or 18233(e) of this title to accelerate the design effort in connection with a military construction project for which the two-phase selection procedures described in subsection (c) are used to select the contractor for both the design and construction portion of the project before the project is specifically authorized by law and before funds are appropriated for the construction portion of the project. Notwithstanding the limitations contained in such sections, use of such funds for the design portion of a military construction project may continue despite the subsequent authorization of the project. The advance notice requirement of section 2807(b) of this title shall continue to apply whenever the estimated cost of the design portion of the project exceeds the amount specified in such section.

"(2) Any military construction contract that provides for an accelerated design effort, as authorized by paragraph (1), shall include as a condition of the contract that the liability of the

United States in a termination for convenience may not exceed the actual costs incurred as of the termination date.

"(3) For each fiscal year during which the authority provided by this subsection is in effect, the Secretary of a military department may select not more than two military construction projects to include the accelerated design effort authorized by paragraph (1) for each armed force under the jurisdiction of the Secretary. To be eligible for selection under this subsection, a request for the authorization of the project, and for the authorization of appropriations for the project, must have been included in the annual budget of the President for a fiscal year submitted to Congress under section 1105(a) of title 31.

"(4) Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report evaluating the usefulness of the authority provided by this subsection in expediting the design and construction of military construction projects. The authority provided by this subsection expires September 30, 2007, except that, if the report required by this paragraph is not submitted by March 1, 2007, the authority shall expire on that date.".

**SEC. 2808. NOTIFICATION THRESHOLDS AND REQUIREMENTS FOR EXPENDITURES OR CONTRIBUTIONS FOR ACQUISITION OF FACILITIES FOR RESERVE COMPONENTS.**

(a) AUTHORITY TO CARRY OUT SMALL PROJECTS.—Section 18233a of title 10, United States Code, is amended to read as follows:

**"§ 18233a. Notice and wait requirements for certain projects**

"(a) CONGRESSIONAL NOTIFICATION.—Except as provided in subsection (b), an expenditure or contribution in an amount in excess of $750,000 may not be made under section 18233 of this title for any facility until—

"(1) the Secretary of Defense has notified the congressional defense committees of the location, nature, and estimated cost of the facility; and

"(2) a period of 21 days has elapsed after the notification has been received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

"(b) CERTAIN EXPENDITURES OR CONTRIBUTIONS EXEMPTED.—Subsection (a) does not apply to expenditures or contributions for the following:

"(1) Facilities acquired by lease.

"(2) A project for a facility that has been authorized by Congress, if the location and purpose of the facility are the same as when authorized and if, based upon bids received—

"(A) the scope of work of the project, as approved by Congress, is not proposed to be reduced by more than 25 percent; and

"(B) the current working estimate of the cost of the project does not exceed the amount approved for the project by more than the lesser of the following:

"(i) 25 percent.

"(ii) 200 percent of the amount specified by section 2805(a)(2) of this title as the maximum amount for a minor military construction project.

"(3) A repair project (as that term is defined in section 2811(e) of this title) that costs less than $7,500,000.".

(b) RECODIFICATION OF LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS.—Chapter 1803 of such title is amended by inserting after section 18233a the following new section:

**"§ 18233b. Authority to carry out small projects with operation and maintenance funds**

"Under such regulations as the Secretary of Defense may prescribe, the Secretary may expend, from appropriations available for operation and maintenance, amounts necessary to carry out any project authorized under section 18233(a) of this title that costs not more than—

"(1) the amount specified in section 2805(c)(1)(A) of this title, in the case of a project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

"(2) the amount specified in section 2805(c)(1)(B) of this title, in the case of any other project.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1803 of such title is amended by striking the item relating to section 18233a and inserting the following new items:

"18233a. Notice and wait requirements for certain projects.
"18233b. Authority to carry out small projects with operation and maintenance funds.".

**SEC. 2809. AUTHORITY TO EXCHANGE RESERVE COMPONENT FACILITIES TO ACQUIRE REPLACEMENT FACILITIES.**

(a) EXCHANGE AUTHORITY.—(1) Chapter 1803 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 18240. Acquisition of facilities by exchange**

"(a) EXCHANGE AUTHORITY.—In addition to the acquisition authority provided by section 18233 of this title, the Secretary of Defense may authorize the Secretary of a military department to acquire a facility, or addition to an existing facility, needed to satisfy military requirements for a reserve component by carrying out an exchange of an existing facility under the control of that Secretary through an agreement with a State, local government, local authority, or private entity.

"(b) FACILITIES ELIGIBLE FOR EXCHANGE.—Only a facility of a reserve component that is not excess property (as defined in section 102(3) of title 40) may be exchanged using the authority provided by this section.

"(c) EQUAL VALUE EXCHANGE.—In any exchange carried out using the authority provided by this section, the value of the replacement facility, or addition to an existing facility, acquired by the United States shall be at least equal to the fair market value of the facility conveyed by the United States under the agreement. If the values are unequal, the values may not be equalized by any payment of cash consideration by either party to the agreement.

"(d) REQUIREMENTS FOR REPLACEMENT FACILITIES.—The Secretary of a military department may not accept a replacement facility, or addition to an existing facility, to be acquired by the United States in an exchange carried out using the authority provided by this section until that Secretary determines that the facility or addition—

"(1) is complete and usable, fully functional, and ready for occupancy;

"(2) satisfies all operational requirements; and

"(3) meets all applicable Federal, State, and local requirements relating to health, safety, fire, and the environment.

"(e) CONSULTATION REQUIREMENTS.—The Secretary of a military department authorized to enter into an agreement under subsection (a) to convey an existing facility under the control of that Secretary by exchange shall consult with representatives of other reserve components to evaluate—

"(1) the value of using the facility to meet the military requirements of another reserve component, instead of conveying the facility under this section; and

"(2) the feasibility of using the conveyance of the facility to acquire a facility, or an addition to an existing facility, that would be jointly used by more than one reserve component or unit.

"(f) ADVANCE NOTICE OF PROPOSED EXCHANGE.—(1) When a decision is made to enter into an agreement under subsection (a) to exchange a facility using the authority provided by this section, the Secretary of the military department authorized to enter into the agreement shall submit to the congressional defense committees a report on the proposed agreement. The report shall include the following:

"(A) A description of the agreement, including the terms and conditions of the agreement, the parties to be involved in the agreement, the origin of the proposal that lead to the agreement, the intended use of the facility to be conveyed by the United States under the agreement, and any costs to be incurred by the United States to make the exchange under the agreement.

"(B) A description of the facility to be conveyed by the United States under the agreement, including the current condition and fair market value of the facility, and a description of the method by which the fair market value of the facility was determined.

"(C) Information on the facility, or addition to an existing facility, to be acquired by the United States under the agreement and the intended use of the facility or addition, which shall meet requirements for information provided to Congress for military construction projects to obtain a similar facility or addition to an existing facility.

"(D) A certification that the Secretary complied with the consultation requirements under subsection (e).

"(E) A certification that the conveyance of the facility under the agreement is in the best interests of the United States and that the Secretary used competitive procedures to the maximum extent practicable to protect the interests of the United States.

"(2) The agreement described in a report prepared under paragraph (1) may be entered into, and the exchange covered by the

agreement made, only after the end of the 30-day period beginning on the date the report is received by the congressional defense committees or, if earlier, the end of the 21-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

"(3) Section 2662 of this title shall not apply to an exchange carried out using the authority provided by this section.

"(g) RELATION TO OTHER MILITARY CONSTRUCTION REQUIREMENTS.—The acquisition of a facility, or an addition to an existing facility, using the authority provided by this section shall not be treated as a military construction project for which an authorization is required by section 2802 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:

"18240. Acquisition of facilities by exchange.".

(b) CONFORMING AMENDMENT.—Section 18233(f)(2) of such title is amended by striking "gift, exchange of Government-owned land, or otherwise" and inserting "or gift".

(c) TEMPORARY AUTHORITY TO INCLUDE CASH EQUALIZATION PAYMENTS IN EXCHANGE.—(1) Notwithstanding subsection (c) of section 18240 of title 10, United States Code, as added by subsection (a), the Secretary of Defense may authorize the Secretary of a military department, as part of an exchange agreement under such section, to make or accept a cash equalization payment if the value of the facility, or addition to an existing facility, to be acquired by the United States under the agreement is not equal to the fair market value of the facility to be conveyed by the United States under the agreement. All other requirements of such section shall continue to apply to the exchange.

(2) Cash equalization payments received by the Secretary of a military department under this subsection shall be deposited in a separate account in the Treasury. Amounts in the account shall be available to the Secretary of Defense, without further appropriation and until expended, for transfer to the Secretary of a military department—

(A) to make any cash equalization payments required to be made by the United States in connection with an exchange agreement covered by this subsection, and the account shall be the only source for such payments; and

(B) to cover costs associated with the maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of facilities, and additions to existing facilities, acquired using an exchange agreement covered by this subsection.

(3) Not more than 15 exchange agreements under section 18240 of title 10, United States Code, may include the exception for cash equalization payments authorized by this subsection. Of those 15 exchange agreements, not more than eight may be for the same reserve component.

(4) In this section, the term "facility" has the meaning given that term in section 18232(2) of title 10, United States Code.

(5) No cash equalization payment may be made or accepted under the authority of this subsection after September 30, 2007. Except as otherwise specifically authorized by law, the authority provided by this subsection to make or accept cash equalization payments in connection with the acquisition or disposal of facilities

of the reserve components is the sole authority available in law to the Secretary of Defense or the Secretary of a military department for that purpose.

(6) Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the exercise of the authority provided by this subsection. The report shall include the following:

(A) A description of the exchange agreements under section 18240 of title 10, United States Code, that included the authority to make or accept cash equalization payments.

(B) A description of the analysis and criteria used to select such agreements for inclusion of the authority to make or accept cash equalization payments.

(C) An assessment of the utility to the Department of Defense of the authority, including recommendations for modifications of such authority in order to enhance the utility of such authority for the Department.

(D) An assessment of interest in the future use of the authority, in the event the authority is extended.

(E) An assessment of the advisability of making the authority, including any modifications of the authority recommended under subparagraph (C), permanent.

**SEC. 2810. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.**

Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723) is amended—

(1) in subsection (a), by inserting "and, subject to subsection (d)(2), fiscal year 2005" after "During fiscal year 2004";

(2) in subsection (c)(1), by striking "in fiscal year 2004" and inserting "in a fiscal year"; and

(3) in subsection (d)—

(A) by inserting "(1)" before "Not later than";

(B) by striking "fiscal year 2004," and inserting "fiscal years 2004 and 2005,"; and

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

"(2) The ability to use this section as authority during fiscal year 2005 to obligate appropriated funds available for operation and maintenance to carry out construction projects outside the United States shall commence only after the date on which the Secretary of Defense submits to the congressional committees specified in subsection (f) all of the quarterly reports that were required under paragraph (1) for fiscal year 2004.".

**SEC. 2811. CONSIDERATION OF COMBINATION OF MILITARY MEDICAL TREATMENT FACILITIES AND HEALTH CARE FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS.**

(a) DEPARTMENT OF DEFENSE CONSIDERATION OF JOINT CONSTRUCTION.—When considering any military construction project for the construction of a new military medical treatment facility in the United States or a territory or possession of the United States, the Secretary of Defense shall consult with the Secretary of Veterans Affairs regarding the feasibility of carrying out a joint project to construct a medical facility that—

(1) could serve as a facility for health-resources sharing between the Department of Defense and the Department of Veterans Affairs; and

(2) would be no more costly to each Department to construct and operate than separate facilities for each Department.

(b) DEPARTMENT OF VETERANS AFFAIRS CONSIDERATION OF JOINT CONSTRUCTION.—When considering the construction of a new or replacement medical facility for the Department of Veterans Affairs, the Secretary of Veterans Affairs shall consult with the Secretary of Defense regarding the feasibility of carrying out a joint project to construct a medical facility that—

(1) could serve as a facility for health-resources sharing between the Department of Veterans Affairs and the Department of Defense; and

(2) would be no more costly to each Department to construct and operate than separate facilities for each Department.

# Subtitle B—Real Property and Facilities Administration

### SEC. 2821. REORGANIZATION OF EXISTING ADMINISTRATIVE PROVISIONS RELATING TO REAL PROPERTY TRANSACTIONS.

(a) LIMITATION ON COMMISSIONS.—(1) Section 2661 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) COMMISSIONS ON LAND PURCHASE CONTRACTS.—The maximum amount payable as a commission on a contract for the purchase of land from funds appropriated for the Department of Defense is two percent of the purchase price.".

(2) Section 2666 of such title is repealed.

(b) REPEAL OF OBSOLETE AUTHORITY TO ACQUIRE LAND FOR TIMBER PRODUCTION.—Section 2664 of such title is repealed.

(c) CONSOLIDATION OF CERTAIN PROVISIONS ON USE OF FACILITIES.—(1) Section 2670 of such title is amended by adding at the end the following new subsection:

"(c) USE OF SPACE AND EQUIPMENT BY VETERANS SERVICE ORGANIZATIONS.—(1) Upon certification to the Secretary concerned by the Secretary of Veterans Affairs, the Secretary concerned shall allow accredited, paid, full-time representatives of the organizations named in section 5902 of title 38, or of other organizations recognized by the Secretary of Veterans Affairs, to function on military installations under the jurisdiction of the Secretary concerned that are on land and from which persons are discharged or released from active duty.

"(2) The commanding officer of a military installation allowing representatives to function on the installation under paragraph (1) shall allow the representatives to use available space and equipment at the installation.

"(3) This subsection does not authorize the violation of measures of military security.".

(2) Section 2679 of such title is repealed.

(3) The regulations prescribed to carry out section 2679 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act, shall remain in effect with regard to section 2670(c) of such title, as added by paragraph (1), until changed by joint action of the Secretary concerned (as

defined in section 101(9) of such title) and the Secretary of Veterans Affairs.

(d) AVAILABILITY OF FUNDS FOR ACQUISITION OF CERTAIN INTERESTS IN REAL PROPERTY.—(1) Section 2672 of such title is amended by adding at the end the following new subsection:

"(d) AVAILABILITY OF FUNDS.—Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of land or interests in land under this section.".

(2) Section 2673 of such title is repealed.

(3) Section 2675 of such title is amended—

(A) by inserting "(a) LEASE AUTHORITY; DURATION.—" before "The Secretary"; and

(B) by adding at the end the following new subsection: "(b) AVAILABILITY OF FUNDS.—Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of interests in land under this section.".

(e) STYLISTIC AND CLERICAL AMENDMENTS.—(1) Section 2661 of such title is further amended—

(A) in subsection (a), by inserting "AVAILABILITY OF OPERATION AND MAINTENANCE FUNDS.—" after "(a)"; and

(B) in subsection (b), by inserting "LEASING AND ROAD MAINTENANCE AUTHORITY.—" after "(b)".

(2) The heading of section 2670 of such title is amended to read as follows:

**"§ 2670. Use of facilities by private organizations; use as polling places".**

(3) The table of sections at the beginning of chapter 159 of such title is amended—

(A) by striking the items relating to sections 2664, 2666, 2673, and 2679; and

(B) by striking the item relating to section 2670 and inserting the following new item:

"2670. Use of facilities by private organizations; use as polling places.".

**SEC. 2822. DEVELOPMENT OF HERITAGE CENTER FOR THE NATIONAL MUSEUM OF THE UNITED STATES ARMY.**

(a) AUTHORITY TO ENTER INTO AGREEMENT FOR DEVELOPMENT OF CENTER.—Chapter 449 of title 10, United States Code, is amended by inserting after section 4771 the following new section:

**"§ 4772. Heritage Center for the National Museum of the United States Army: development and operation**

"(a) AGREEMENT FOR DEVELOPMENT OF CENTER.—The Secretary of the Army may enter into an agreement with the Army Historical Foundation, a nonprofit organization, for the design, construction, and operation of a facility or group of facilities at Fort Belvoir, Virginia, for the National Museum of the United States Army. The facility or group of facilities constructed pursuant to the agreement shall be known as the Heritage Center for the National Museum of the United States Army (in this section referred to as the 'Center').

"(b) PURPOSE OF CENTER.—The Center shall be used for the identification, curation, storage, and public viewing of artifacts and artwork of significance to the United States Army, as agreed to

by the Secretary of the Army. The Center may also be used to support such education, training, research, and associated purposes as the Secretary considers appropriate.

"(c) DESIGN AND CONSTRUCTION.—(1) The design of the Center shall be subject to the approval of the Secretary of the Army.

"(2) For each phase of the development of the Center, the Secretary may—

"(A) accept funds from the Army Historical Foundation for the design and construction of such phase of the Center; or

"(B) permit the Army Historical Foundation to contract for the design and construction of such phase of the Center.

"(d) ACCEPTANCE BY SECRETARY.—Upon the satisfactory completion, as determined by the Secretary of the Army, of any phase of the Center, and upon the satisfaction of any financial obligations incident to such phase of the Center by the Army Historical Foundation, the Secretary shall accept such phase of the Center from the Army Historical Foundation, and all right, title, and interest in and to such phase of the Center shall vest in the United States. Upon becoming the property of the United States, the Secretary shall assume administrative jurisdiction over the Center.

"(e) USE OF CERTAIN GIFTS.—(1) Under regulations prescribed by the Secretary of the Army, the Commander of the United States Army Center of Military History may, without regard to section 2601 of this title, accept, hold, administer, invest, and spend any gift, devise, or bequest of personal 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 National Museum of the United States Army or the 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.

"(f) LEASE OF FACILITY.—(1) Under such terms and conditions as the Secretary of the Army considers appropriate, the Secretary may lease portions of the Center to the Army Historical Foundation to be used by the Foundation, consistent with the purpose of the Center, for—

"(A) generating revenue for activities of the Center through rental use by the public, commercial and nonprofit entities, State and local governments, and other Federal agencies; and

"(B) such administrative purposes as may be necessary for the support of the Center.

"(2) The annual amount of consideration paid to the Secretary by the Army Historical Foundation for a lease under paragraph (1) may not exceed an amount equal to the actual cost, as determined by the Secretary, of the annual operations and maintenance of the Center.

"(3) Notwithstanding any other provision of law, the Secretary shall use amounts paid under paragraph (2) to cover the costs of operation of the Center.

"(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the agreement authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4771 the following new item:

"4772. Heritage Center for the National Museum of the United States Army: development and operation.".

**SEC. 2823. ELIMINATION OF REVERSIONARY INTERESTS CLOUDING UNITED STATES TITLE TO PROPERTY USED AS NAVY HOMEPORTS.**

(a) AUTHORITY TO ACQUIRE COMPLETE TITLE.—If real property owned by the United States and used as a Navy homeport is subject to a reversionary interest of any kind, the Secretary of the Navy may enter into an agreement with the holder of the reversionary interest to acquire the reversionary interest and thereby secure for the United States all right, title, and interest in and to the property.

(b) AUTHORIZED CONSIDERATION.—(1) As consideration for the acquisition of a reversionary interest under subsection (a), the Secretary shall provide the holder of the reversionary interest with in-kind consideration, to be determined pursuant to negotiations between the Secretary and the holder of the reversionary interest.

(2) In determining the type and value of any in-kind consideration to be provided for the acquisition of a reversionary interest under subsection (a), the Secretary shall take into account the nature of the reversionary interest, including whether it would require the holder of the reversionary interest to pay for any improvements acquired by the holder as part of the reversion of the real property, and the long-term use and ultimate disposition of the real property if the United States were to acquire all right, title, and interest in and to the real property subject to the reversionary interest.

(c) PROHIBITED CONSIDERATION.—Cash payments are not authorized to be made as consideration for the acquisition of a reversionary interest under subsection (a).

## Subtitle C—Base Closure and Realignment

**SEC. 2831. ESTABLISHMENT OF SPECIFIC DEADLINE FOR SUBMISSION OF REVISIONS TO FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY.**

Section 2912(a)(4) 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 "as part of the budget justification documents submitted to Congress for fiscal year 2006." and inserting the following: "not later than March 15, 2005. For purposes of selecting military installations for closure or realignment under this part in 2005, no revision of the force-structure plan or infrastructure inventory is authorized after that date.".

**SEC. 2832. SPECIFICATION OF FINAL SELECTION CRITERIA FOR 2005 BASE CLOSURE ROUND.**

Section 2913 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 to read as follows:

**"SEC. 2913. FINAL SELECTION CRITERIA FOR ADDITIONAL ROUND OF BASE CLOSURES AND REALIGNMENTS.**

"(a) FINAL SELECTION CRITERIA.—The final criteria 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 shall be the military value and other criteria specified in subsections (b) and (c).

"(b) MILITARY VALUE CRITERIA.—The military value criteria are as follows:

"(1) The current and future mission capabilities and the impact on operational readiness of the total force of the Department of Defense, including the impact on joint warfighting, training, and readiness.

"(2) The availability and condition of land, facilities, and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

"(3) The ability to accommodate contingency, mobilization, surge, and future total force requirements at both existing and potential receiving locations to support operations and training.

"(4) The cost of operations and the manpower implications.

"(c) OTHER CRITERIA.—The other criteria that the Secretary shall use in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005 are as follows:

"(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 the infrastructure of both the existing and potential receiving communities to support forces, missions, and personnel.

"(4) The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

"(d) PRIORITY GIVEN TO MILITARY VALUE.—The Secretary shall give priority consideration to the military value criteria specified in subsection (b) in the making of recommendations for the closure or realignment of military installations.

"(e) EFFECT ON DEPARTMENT AND OTHER AGENCY COSTS.—The selection criteria 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.

"(f) RELATION TO OTHER MATERIALS.—The final selection criteria specified in this section shall be the only criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making recommendations for the

closure or realignment of military installations inside the United States under this part in 2005.

"(g) 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.".

(c) CONFORMING AMENDMENTS.—The Defense Base Closure and Realignment Act of 1990 is amended—

(1) in section 2912(c)(1)(A), by striking "criteria prepared under section 2913" and inserting "criteria specified in section 2913"; and

(2) in section 2914(a), by striking "criteria prepared by the Secretary under section 2913" and inserting "criteria specified in section 2913".

**SEC. 2833. REPEAL OF AUTHORITY OF SECRETARY OF DEFENSE TO RECOMMEND THAT INSTALLATIONS BE PLACED IN INACTIVE STATUS.**

Section 2914 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 subsection (c).

**SEC. 2834. VOTING REQUIREMENTS FOR DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION TO ADD TO OR OTHERWISE EXPAND CLOSURE AND REALIGNMENT RECOMMENDATIONS MADE BY SECRETARY OF DEFENSE.**

Subsection (d) of section 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat, 1346) and amended by section 2854 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2728), is amended—

(1) in paragraph (3), by striking "TO ADD" and inserting "TO CONSIDER ADDITIONS"; and

(2) by striking paragraph (5) and inserting the following new paragraph:

"(5) REQUIREMENTS TO EXPAND CLOSURE OR REALIGNMENT RECOMMENDATIONS.—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not make a change in the recommendations of the Secretary that would close a military installation not recommended for closure by the Secretary, would realign a military installation not recommended for closure or realignment by the Secretary, or would expand the extent of the realignment of a military installation recommended for realignment by the Secretary unless—

"(A) at least two members of the Commission visit the military installation before the date of the transmittal of the report; and

"(B) the decision of the Commission to make the change to recommend the closure of the military installation, the realignment of the installation, or the expanded realignment of the installation is supported by at least seven members of the Commission.".

# Subtitle D—Land Conveyances

## PART I—ARMY CONVEYANCES

### SEC. 2841. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army, in consultation with the Administrator of General Services, may convey to an entity selected by the Board of Commissioners of Johnson County, Kansas (in this section referred to as the "entity" and the "Board", respectively), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 9,065 acres and containing the Sunflower Army Ammunition Plant. The purpose of the conveyance is to facilitate the re-use of the property for economic development and revitalization.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the entity shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined by an appraisal of the property acceptable to the Administrator and the Secretary. As a form of in-kind consideration for the conveyance of the property, the Secretary may authorize the entity to carry out environmental remediation activities for the conveyed property.

(2) Cash consideration received under paragraph (1) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B)(i) of such subsection.

(c) CONSTRUCTION WITH PREVIOUS LAND CONVEYANCE AUTHORITY.—The conveyance authority provided by subsection (a) is in addition to the conveyance authority provided by section 2823 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2712) to convey a portion of the Sunflower Army Ammunition Plant to the Johnson County Park and Recreation District.

(d) AGREEMENTS CONCERNING ENVIRONMENTAL REMEDIATION AND EXPLOSIVES CLEANUP.—(1) The Secretary, in consultation with the Administrator, may enter into a multi-year cooperative agreement or contract with the entity for the environmental remediation and explosives cleanup of the conveyed property, and may utilize amounts authorized to be appropriated to the Secretary for purposes of environmental remediation and explosives cleanup under the agreement or contract.

(2) The cooperative agreement or contract may provide for advance payments on an annual basis or for payments on a performance basis. Payments may be made over a period of time agreed to by the Secretary and the entity or for such time as may be necessary to perform the environmental remediation and explosives cleanup of the property, including any long-term operation and maintenance requirements.

(e) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the entity to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey

costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the entity in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the entity.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(f) 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 and the Administrator.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary and the Administrator may require such additional terms and conditions in connection with the conveyance of real property under subsection (a), and the environmental remediation and explosives cleanup under subsection (d), as the Secretary and the Administrator jointly consider appropriate to protect the interests of the United States.

**SEC. 2842. LAND EXCHANGE, FORT CAMPBELL, KENTUCKY AND TENNESSEE.**

(a) LAND EXCHANGE AUTHORIZED.—In exchange for the real property described in subsection (b), the Secretary of the Army may convey to Bi-County Solid Waste Management System, a local government agency (in this section referred to as "Bi-County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 358 acres located at Fort Campbell in Montgomery County, Tennessee, for the purpose of permitting Bi-County to expand a landfill facility.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), Bi-County shall convey to the United States all right, title, and interest of Bi-County in and to a parcel of real property consisting of approximately 670 acres located adjacent to Fort Campbell in Trigg County, Kentucky, and Stewart County, Tennessee. The Secretary shall have jurisdiction over the real property received under this subsection.

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that Bi-County construct a fence, acceptable to the Secretary, consisting of at least six-foot high, nine-gauge chain-link and three-strand barbed wire along the boundary between Fort Campbell and the real property conveyed under subsection (a).

(d) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require Bi-County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from Bi-County in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually

incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to Bi-County.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary and Bi-County.

(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. LAND CONVEYANCE, LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Louisiana (in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 14,949 acres located at the Louisiana Army Ammunition Plant, Doyline, Louisiana.

(b) CONDITIONS OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That at least 13,500 acres of the real property conveyed under such subsection is maintained by the State for the purpose of military training, unless the Secretary determines that fewer acres are required for such purpose.

(2) That the State ensure that any other uses made of the conveyed property do not adversely impact such military training.

(3) That the State accommodate the use of the conveyed property, at no cost or fee, for meeting the present and future training needs of units of the Armed Forces, including units of the Louisiana National Guard and the other active and reserve components of the Armed Forces.

(4) That the State assume the rights and responsibilities of the Department of the Army under the armaments retooling manufacturing support agreement between the Department of the Army and the facility use contractor with respect to the Louisiana Army Ammunition Plant, in accordance with the terms of such agreement in effect at the time of the conveyance.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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 State.

(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. LAND CONVEYANCE, FORT LEONARD WOOD, MISSOURI.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Missouri (in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 227.7 acres at Fort Leonard Wood, Missouri, for the purpose of permitting the State to establish on the property a State-operated cemetery for veterans of the Armed Forces.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the State to carry out the conveyance, the Secretary shall refund the excess amount to the State. The authority of the Secretary to require the State to cover administrative costs related to the conveyance does not include costs related to any environmental remediation required for the property.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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.

(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. 2845. TRANSFER OF ADMINISTRATIVE JURISDICTION, DEFENSE SUPPLY CENTER, COLUMBUS, OHIO.**

(a) TRANSFER AUTHORIZED.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property consisting of approximately 20 acres and comprising a portion of the Defense Supply Center in Columbus, Ohio.

(b) USE OF PROPERTY.—The Secretary of Veterans Affairs may only use the property transferred under subsection (a) as the site for the construction of a new outpatient clinic for the provision of medical services to veterans.

(c) COSTS.—Any administrative costs in connection with the transfer of property under subsection (a), including the costs of the survey required by subsection (e), shall be borne by the Secretary of Veterans Affairs.

(d) RETURN OF JURISDICTION TO ARMY.—If construction of the outpatient clinic described in subsection (b) has not commenced on the property transferred under subsection (a) by the end of the three-year period beginning on the date on which the property is transferred, the Secretary of Veterans Affairs shall return, at the request of the Secretary of the Army, administrative jurisdiction over the property to the Secretary of the Army.

(e) DESCRIPTION OF PROPERTY.—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 Army.

**SEC. 2846. JURISDICTION AND UTILIZATION OF FORMER PUBLIC DOMAIN LANDS, UMATILLA CHEMICAL DEPOT, OREGON.**

(a) RETENTION OF JURISDICTION.—The various parcels of real property consisting of approximately 8,300 acres within the boundaries of Umatilla Chemical Depot, Oregon, that were previously withdrawn from the public domain are no longer suitable for return to the public domain and shall remain under the administrative jurisdiction of the Secretary of the Army.

(b) UTILIZATION.—The Secretary shall combine the real property described in subsection (a) with other real property comprising the Umatilla Chemical Depot for purposes of their management and disposal pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Public Law 100–526; 10 U.S.C. 2687 note) and other applicable law.

**SEC. 2847. MODIFICATION OF AUTHORITY FOR LAND CONVEYANCE, EQUIPMENT AND STORAGE YARD, CHARLESTON, SOUTH CAROLINA.**

Subsection (h) of section 563 of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 360) is amended to read as follows:

"(h) CHARLESTON, SOUTH CAROLINA.—

"(1) CONVEYANCE AUTHORIZED.—The Secretary may convey to the City of Charleston, South Carolina (in this subsection referred to as the 'City'), all right, title, and interest of the United States in and to a parcel of real property of the Corps

of Engineers, including any improvements thereon, that is known as the Equipment and Storage Yard and consists of approximately 1.06 acres located on Meeting Street in Charleston, South Carolina. The property shall be conveyed in as-is condition.

"(2) CONSIDERATION.—As consideration for the conveyance under this subsection, the City shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the property conveyed, as determined by the Secretary.

"(3) USE OF PROCEEDS.—(A) Notwithstanding any requirements associated with the Plant Replacement and Improvement Program, amounts received as consideration under paragraph (2) may be used by the Corps of Engineers, Charleston District—

"(i) to lease, purchase, or construct an office facility within the boundaries of Charleston, Berkeley, or Dorchester County, South Carolina;

"(ii) to cover costs associated with the design and furnishing of such facility; and

"(iii) to satisfy any Plant Replacement and Improvement Program balances.

"(B) Any amounts received as consideration under paragraph (2) that are in excess of the fair market value of the real property conveyed under this subsection may be used for any authorized activities of the Corps of Engineers, Charleston District.

"(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this subsection and any property transferred to the United States as consideration under paragraph (2) shall be determined by surveys satisfactory to the Secretary.

"(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.".

**SEC. 2848. LAND CONVEYANCE, FORT HOOD, TEXAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Texas A&M University System of the State of Texas (in this section referred to as the "University System") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 662 acres at Fort Hood, Texas, for the sole purpose of permitting the University System to establish on the property an upper level (junior, senior, and graduate) university that will be State-supported, separate from other universities of the University System, and designated as Texas A&M University, Central Texas.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the University System shall pay to the United States an amount equal to the fair market value of the conveyed property, as determined pursuant to an appraisal acceptable to the Secretary.

(2) In lieu of all or a portion of the cash consideration required by paragraph (1), the Secretary may accept in-kind consideration,

including the conveyance by the University System of real property acceptable to the Secretary.

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Secretary determine that the conveyance of the property and the establishment of a university on the property will not adversely impact the operation of Robert Grey Army Airfield, which is located on Fort Hood approximately one mile from the property authorized for conveyance.

(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 University System.

(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. 2849. LAND CONVEYANCE, LOCAL TRAINING AREA FOR BROWNING ARMY RESERVE CENTER, UTAH.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Utah (in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of unimproved real property consisting of approximately 10 acres of the Local Training Area for the Browning Army Reserve Center, Utah, for the purpose of facilitating the construction and operation of a nursing-care facility for veterans. The parcel to be conveyed under this subsection shall be selected by the Secretary in consultation with the State.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts paid to the Secretary in advance exceed the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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.

(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. 2850. LAND CONVEYANCE, ARMY RESERVE CENTER, HAMPTON, VIRGINIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Hampton City School Board of Hampton, Virginia (in this section referred to as the "Board"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, that consists of approximately 13.42 acres, is located on Downey Farm Road in Hampton, Virginia, and is known as the Butler Farm United States Army Reserve Center for the purpose of permitting the Board to use the property for public education purposes.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Board accept the real property described in subsection (a) in its condition at the time of the conveyance, commonly known as conveyance "as is".

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the Board to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Board in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Board.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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.

(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. 2851. LAND CONVEYANCE, ARMY NATIONAL GUARD FACILITY, SEATTLE, WASHINGTON.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Washington (in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 9.747 acres in Seattle, Washington, and comprising a portion of the National Guard Facility, Pier 91, for the purpose of permitting the State to convey the facility unencumbered for economic development purposes.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the State accept the real property in its condition at the time of the conveyance, commonly known as conveyance "as is".

(c) ADMINISTRATIVE EXPENSES.—(1) The State shall reimburse the Secretary for the administrative expenses incurred by the Secretary in carrying out the conveyance under subsection (a), including expenses related to surveys and legal descriptions, boundary monumentation, environmental surveys, necessary documentation, travel, and deed preparation.

(2) Section 2695(c) of title 10, United States Code, shall apply to any amounts received by the Secretary as reimbursement 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 United States, subject to the requirement for reimbursement under subsection (c).

(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. 2852. MODIFICATION OF LAND EXCHANGE AND CONSOLIDATION, FORT LEWIS, WASHINGTON.**

(a) PROPERTY TO BE TRANSFERRED TO SECRETARY OF THE INTERIOR IN TRUST.—Subsection (a)(1) of section 2837 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1315) is amended—

(1) by striking "may convey to" and inserting "may transfer to the Secretary of the Interior, in trust for"; and

(2) by striking "Washington, in" and all that follows through the period and inserting "Washington. The Secretary of the Army may make the transfer under the preceding sentence, and the Secretary of the Interior may accept the property transferred in trust for the Nisqually Tribe under the preceding sentence, only in conjunction with the conveyance described in subsection (b)(2).".

(b) INCREASE IN ACREAGE TO BE TRANSFERRED.—Such subsection is further amended by striking "138 acres" and inserting "168 acres".

(c) QUALIFICATION ON PROPERTY TO BE TRANSFERRED.—Subsection (a)(2) of such section is amended—

(1) by striking "conveyance" and inserting "transfer"; and

(2) by striking "or the right of way described in subsection (c)" and inserting "located on the real property transferred under that paragraph".

(d) CONSIDERATION.—Subsection (b) of such section is amended—

(1) in the matter preceding paragraph (1), by striking "conveyance" and inserting "transfer"; and

(2) in paragraph (2), by striking "fee title over the acquired property to the Secretary" and inserting "to the United States fee title to the property acquired under paragraph (1), free from all liens, encumbrances or other interests other than those, if any, acceptable to the Secretary of the Army".

(e) TREATMENT OF EXISTING PERMIT RIGHTS; GRANT OF EASEMENT.—Such section is further amended—

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

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

"(d) TREATMENT OF EXISTING PERMIT RIGHTS; GRANT OF EASEMENT.—(1) The transfer under subsection (a) recognizes and preserves to the Bonneville Power Administration, in perpetuity and without the right of revocation except as provided in paragraph (2), rights in existence at the time of the conveyance under the permit dated February 4, 1949, as amended January 4, 1952, between the Department of the Army and the Bonneville Power Administration with respect to any portion of the property transferred under subsection (a) upon which the Bonneville Power Administration retains transmission facilities. The rights recognized and preserved include the right to upgrade those transmission facilities.

"(2) The permit rights recognized and preserved under paragraph (1) shall terminate only upon the Bonneville Power Administration's relocation of the transmission facilities referred to in paragraph (1), and then only with respect to that portion of those transmission facilities that are relocated.

"(3) The Secretary of the Interior, as trustee for the Nisqually Tribe, shall grant to the Bonneville Power Administration, without consideration and subject to the same rights recognized and preserved in paragraph (1), such additional easements across the property transferred under subsection (a) as the Bonneville Power Administration considers necessary to accommodate the relocation or reconnection of Bonneville Power Administration transmission facilities from property owned by the Tribe and held by the Secretary of the Interior in trust for the Tribe.".

(f) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended by inserting "of the Army" after "Secretary".

(2) Subsection (e) of such section (as redesignated by subsection (e)(1)) is amended—

(A) by striking "conveyed" and inserting "transferred";

(B) by inserting "of the Army" after "Secretary"; and

(C) by striking "the recipient of the property being surveyed" and inserting "the Tribe, in the case of the transfer under subsection (a), and the Secretary of the Army, in the case of the acquisition under subsection (b)".

(3) Subsection (f) of such section (as redesignated by subsection (e)(1)) is amended—

(A) by inserting "of the Army" after "Secretary" both place it appears; and

(B) by striking "conveyances under this section" and inserting "transfer under subsection (a) and conveyances under subsections (b)(2) and (c)".

## PART II—NAVY CONVEYANCES

### SEC. 2861. LAND EXCHANGE, FORMER RICHMOND NAVAL AIR STATION, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the University of Miami, Miami, Florida (in this section referred to as the "University"), all right, title, and interest of

the United States in and to certain parcels of real property, together with any improvements thereon, consisting of approximately 14 acres and located in the vicinity of the former Richmond Naval Air Station, Florida, in order to facilitate force protection and security needs of Department of Defense facilities located on the former Richmond Naval Air Station.

(b) RELEASE OF EASEMENTS.—As part of the conveyance of property authorized by subsection (a), the Secretary may also—

(1) release and extinguish any interest of the United States in a clearance easement on the western portion of the property of the University; and

(2) release and extinguish any interest of the United States in a certain easement for ingress and egress extending southwest and south from Southwest 127th Street along the western property line of a certain portion of United States property referred to as "IE2" in the Agreement in Principle referred to in subsection (e)(2).

(c) CONSIDERATION.—As consideration for the conveyance of property authorized by subsection (a) and the release and extinguishment of interests authorized by subsection (b), the University shall—

(1) convey to the United States all right, title, and interest of the University in and to certain parcels of real property, together with any improvements thereon, consisting of approximately 12 acres;

(2) grant to the United States such easement over a parcel of real property located along the western boundary of the property of the University as the Secretary considers appropriate to permit the United States to exercise dominion and control over the portion of the western boundary of the property of the University that has been, or may be, designated as Natural Forest Community habitat;

(3) construct and install a berm and fence security system along the entirety of the new property line between the United States and the University;

(4) relocate the existing security gate and guard building, or establish a new security gate and guard building similar in design and size to the existing security gate and guard building, at a point where the property of the United States and the University intersect on the existing ingress-egress road; and

(5) construct a new two-lane access road from Southwest 152nd Street at the western boundary of the property of the University to a point that connects with the existing road on the property of the United States (commonly referred to as the "FAA Road").

(d) CONSTRUCTION WITH PREVIOUS CONVEYANCE.—Any restrictions on the use as an animal research facility of a certain parcel of real property, consisting of approximately 30 acres, conveyed by the Secretary of Health and Human Services to the University pursuant to section 647 of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–366) shall terminate upon the execution of the agreement of exchange required by subsection (e).

(e) TERMS OF EXCHANGE.—(1) The Secretary and the University shall carry out the conveyances and releases of interest authorized by this section pursuant to an agreement of exchange (to be known

as the "Exchange Agreement") between the Secretary and the University.

(2) The agreement of exchange shall conform to, and develop with more particularity, the Agreement in Principle executed by the United States and the University on July 13 through 15, 2004.

(f) PAYMENT OF COSTS.—(1) The Secretary may require the University to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under this section and the release and grants of interests under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to such activities. If amounts paid to the Secretary in advance exceed the costs actually incurred by the Secretary to carry out such activities, the Secretary shall refund the excess amount to the University.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section, and of the interests to be released or granted under this section, shall be determined by surveys satisfactory to the Secretary.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section, and the release and grants of interests under this section, as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2862. LAND CONVEYANCE, HONOLULU, HAWAII.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration but subject to the conditions specified in subsection (b), to the City and County of Honolulu, Hawaii, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 5.16 acres located at 890 Valkenberg Avenue, Honolulu, Hawaii, and currently used by the City and County of Honolulu as the site of a fire station and firefighting training facility. The purpose of the conveyance is to enhance the capability of the City and County of Honolulu to provide fire protection and firefighting services to the civilian and military properties in the area and to provide a location for firefighting training for civilian and military personnel.

(b) CONDITIONS OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the City and County of Honolulu accept the real property in its condition at the time of the conveyance, commonly known as conveyance "as is".

(2) That the City and County of Honolulu make the firefighting training facility available to the fire protection and firefighting units of the military departments for training not less than two days per week on terms satisfactory to the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary shall require the City and County of Honolulu to cover costs to

be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City and County of Honolulu in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount, without interest, to the City and County of Honolulu.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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.

(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. 2863. LAND CONVEYANCE, NAVY PROPERTY, FORMER FORT SHERIDAN, ILLINOIS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the State of Illinois, a political subdivision of the State, or a nonprofit land conservation organization (in this section referred to as the "grantee") all right, title, and interest of the United States in and to certain parcels of real property consisting of a total of approximately 25 acres of environmentally sensitive land at the former Fort Sheridan, Illinois, for the purpose of ensuring the permanent protection of the land.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used or maintained in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) RECONVEYANCE AUTHORIZED.—The Secretary may permit the grantee to convey the real property conveyed under subsection (a) to another eligible entity described in such subsection, subject to the same covenants and terms and conditions as provided in the deed from the United States.

(d) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary shall require the grantee to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the grantee in advance of the Secretary incurring the actual costs, and the amount collected exceeds

the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the grantee.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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.

(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.

(g) USE OF ALTERNATE CONVEYANCE AUTHORITY.—In lieu of using the authority provided by this section to convey the real property described in subsection (a), the Secretary may elect to include the property in a conveyance authorized by section 2878 of title 10, United States Code, subject to such terms, reservations, restrictions, and conditions as may be necessary to ensure the permanent protection of the property, if the Secretary determines that a conveyance under such section is advantageous to the interests of the United States.

**SEC. 2864. LAND EXCHANGE, NAVAL AIR STATION, PATUXENT RIVER, MARYLAND.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Maryland (in this section referred to as "State") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately five acres at Naval Air Station, Patuxent River, Maryland, and containing the Point Lookout Lighthouse, other structures related to the lighthouse, and an archaeological site pertaining to the military hospital that was located on the property during the Civil War. The conveyance shall include artifacts pertaining to the military hospital recovered by the Navy and held at the installation.

(b) PROPERTY RECEIVED IN EXCHANGE.—As consideration for the conveyance of the real property under subsection (a), the State shall convey to the United States a parcel of real property at Point Lookout State Park, Maryland, consisting of approximately five acres, or a smaller parcel that the Secretary considers sufficient and such related property interests as the Secretary and the State may agree to.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred in connection with the acquisition of real property under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out

the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(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. 2865. MODIFICATION OF LAND ACQUISITION AUTHORITY, PERQUIMANS COUNTY, NORTH CAROLINA.**

Section 2846 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1320) is amended by striking "240 acres" and insert "840 acres".

**SEC. 2866. LAND CONVEYANCE, NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the Berkeley County Sanitation Authority, South Carolina (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of not more than 38 acres and comprising a portion of the Naval Weapons Station, Charleston, South Carolina, for the purpose of allowing the Authority to expand an existing sewage treatment plant.

(b) CONSIDERATION.—(1) As consideration for the conveyance of the real property under subsection (a), the Authority shall provide the United States, whether by cash payment, in-kind services, or a combination thereof, an amount that is not less than the fair market value of the conveyed property.

(2) The fair market value of the real property conveyed under subsection (a) shall be determined by an appraisal acceptable to the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the Authority to cover costs incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Authority in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Authority.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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.

(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. 2867. LAND CONVEYANCE, NAVY YMCA BUILDING, PORTSMOUTH, VIRGINIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Portsmouth, Virginia (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 0.49 acres located at 517 King Street in Portsmouth, Virginia, and known as the "Navy YMCA Building", for the purpose of permitting the City to use the property for economic revitalization purposes.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount equal to the costs related to the environmental remediation of the real property to be conveyed.

(c) PAYMENT OF OTHER COSTS OF CONVEYANCE.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts paid to the Secretary in advance exceed the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(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.

(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.

## PART III—AIR FORCE CONVEYANCES

**SEC. 2871. LAND EXCHANGE, MAXWELL AIR FORCE BASE, ALABAMA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the City of Montgomery, Alabama (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 28 acres and containing the Maxwell Heights Housing site at Maxwell Air Force Base, Alabama.

(b) CONSIDERATION.—(1) As consideration for the conveyance of the real property under subsection (a), the City shall convey

to the United States a parcel of real property, including any improvements thereon, located contiguous to Maxwell Air Force Base, consisting of approximately 35 acres, and designated as project AL 6–4, for the purpose of allowing the Secretary to incorporate the parcel into a project for the acquisition or improvement of military housing. The military housing project may consist of or include a project conducted under the authority of subchapter IV of chapter 169 of title 10, United States Code. The Secretary shall have jurisdiction over the real property received under this paragraph.

(2) If the fair market value of the real property received under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a), the Secretary may require the City to make up the difference through the payment of cash, the provision of in-kind consideration, or a combination thereof, to be determined pursuant to negotiations between the Secretary and the City.

(3) The fair market values of the real property to be exchanged under this section shall be determined by appraisals acceptable to the Secretary and the City.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsections (a) and (b), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyances, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(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. 2872. LAND CONVEYANCE, MARCH AIR FORCE BASE, CALIFORNIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the March Joint Powers Authority (in this section referred to as the "Authority") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 15 acres located in Riverside County, California, and containing the former Defense Reutilization and Marketing Office facility for March Air Force Base, which is also known as Parcel A–6, for the purpose of permitting the Authority to use the property for economic development and revitalization.

(b) CONSIDERATION.—As consideration for the conveyance of the real property under subsection (a), the Authority shall pay the United States an amount equal to the fair market value of the conveyed property, as determined by the Secretary. The payment shall be deposited in the special account in the Treasury referred to in paragraph (5) of section 572(b) of title 40, United States Code, and shall be available as provided in subparagraph (B)(ii) of such paragraph.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Authority.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2873. LAND CONVEYANCE, FORMER GRIFFISS AIR FORCE BASE, NEW YORK.**

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Air Force may convey to the Oneida County Industrial Development Agency, New York, the local reuse authority for the former Griffiss Air Force Base (in this section referred to as the "Authority"), all right, title and interest of the United States in and to two parcels of real property consisting of 7.897 acres and 1.742 acres and containing the four buildings specified in paragraph (2), which were vacated by the Air Force in conjunction with its relocation to the Consolidated Intelligence and Reconnaissance Laboratory at Air Force Research Laboratory—Rome Research Site, Rome, New York.

(2) The buildings referred to in paragraph (1) are the following:

(A) Building 240 (117,323 square feet).

(B) Building 247 (13,199 square feet).

(C) Building 248 (4,000 square feet).

(D) Building 302 (20,577 square feet).

(3) The purpose of the conveyance under this subsection is to permit the Authority to develop the parcels and buildings for economic purposes in a manner consistent with section 2905 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).

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Authority accept the real property in its condition at the time of the conveyance, commonly known as conveyance "as is".

(c) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Authority shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount equal to the fair market of value of the conveyed real property, as determined by the Secretary.

(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 Authority.

(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.

## PART IV—OTHER CONVEYANCES

**SEC. 2881. LAND EXCHANGE, ARLINGTON COUNTY, VIRGINIA.**

(a) EXCHANGE AUTHORIZED.—The Secretary of Defense may convey to Arlington County, Virginia (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, that consists of not more than 4.5 acres and is located north of Columbia Pike on the Navy Annex property in Arlington County, Virginia, for the purpose of the construction of a freedmen heritage museum and an Arlington history museum.

(b) CONSIDERATION.—As consideration for the conveyance of the real property under subsection (a), the County shall convey to the United States all right, title, and interest of the County in and to a parcel of real property, together with any improvements thereon, that is of a size equivalent to the total acreage of the real property conveyed by the Secretary under subsection (a) and is located in the area known as the Southgate Road right-of-way between Arlington National Cemetery, Virginia, and the Navy Annex property.

(c) SELECTION OF PROPERTY FOR CONVEYANCE.—The Secretary, in consultation with the County, shall determine the acreage of the parcels of real property to be exchanged under this section, and such determination shall be final. In selecting the real property for conveyance to the County under subsection (a), the Secretary shall seek—

(1) to provide the County with sufficient property for museum construction that is compatible with, and honors, the history of the freedmen's village that was located in the area and the heritage of the County;

(2) to preserve the appropriate traditions of Arlington National Cemetery; and

(3) to maintain the amount of acreage currently available for potential grave sites at Arlington National Cemetery.

(d) PAYMENT OF COSTS OF CONVEYANCES.—(1) The Secretary may require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsections (a) and (b), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the County.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(f) REVERSIONARY INTEREST.—(1) If at any time the Secretary determines that the property conveyed to the County under subsection (a) is not being used for the purposes stated in that subsection, then, at the option of the Secretary, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property.

(2) If the Secretary exercises the reversionary interest provided for in paragraph (1), the Secretary shall pay the County, from amounts available to the Secretary for military construction for the Defense Agencies, an amount equal to the fair market value of the property that reverts to the United States, as determined by the Secretary.

(g) INCLUSION OF SOUTHGATE ROAD RIGHT-OF-WAY PROPERTY IN TRANSFER OF NAVY ANNEX PROPERTY FOR ARLINGTON NATIONAL CEMETERY.—Subsection (a) of section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879) is amended by striking "three parcels of real property consisting of approximately 36 acres" and inserting "four parcels of real property consisting of approximately 40 acres".

(h) TERMINATION OF RESERVATION OF CERTAIN NAVY ANNEX PROPERTY FOR MEMORIALS OR MUSEUMS.—(1) Subsection (b) of such section, as amended by section 2863(f) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1332) and section 2851(a)(1) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2726), is further amended—

(A) by striking "(1) Subject to paragraph (2), the Secretary" and inserting "The Secretary"; and

(B) by striking paragraph (2).

(2) Subsection (d)(2) of such section, as amended by section 2851(a)(2) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2726), is further amended—

(A) by striking "(A)"; and

(B) by striking ", and (B)" and all that follows through "Museum." and inserting a period.

(3) Subsection (f) of such section is amended by striking "reserved under subsection (b)(2) and of the portion".

(i) 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.

## Subtitle E—Other Matters

### SEC. 2891. ONE-YEAR RESUMPTION OF DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

Section 2892(g) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2805 note) is amended by striking "September 30, 2003" and inserting "September 30, 2005".

**SEC. 2892. DESIGNATION OF AIRMEN LEADERSHIP SCHOOL AT LUKE AIR FORCE BASE, ARIZONA, IN HONOR OF JOHN J. RHODES, A FORMER MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.**

The Airmen Leadership School at Luke Air Force Base, Arizona, building 156, shall be known and designated as the "John J. Rhodes Airmen Leadership School". Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. Rhodes Airmen Leadership School.

**SEC. 2893. SETTLEMENT OF CLAIM OF OAKLAND BASE REUSE AUTHORITY AND REDEVELOPMENT AGENCY.**

(a) AUTHORITY TO SETTLE CLAIM.—The Secretary of the Navy may make a payment in the amount of $2,100,000 to the Oakland Base Reuse Authority and Redevelopment Agency of the City of Oakland, California, in settlement of Oakland Base Reuse Authority and Redevelopment Agency of the City of Oakland v. the United States, Case No. C02–4652 MHP, United States District Court, Northern District of California, including any appeal.

(b) RELEASE OF CLAIM.—The payment made under subsection (a) shall be in full satisfaction of all claims of the Oakland Base Reuse Authority and Redevelopment Agency against the United States related to the case referred to in subsection (a), and the Oakland Base Reuse Authority and Redevelopment Agency shall give to the Secretary a release of all claims to 18 officer housing units and related real property located at the former Naval Medical Center Oakland, California. The release shall be in a form that is satisfactory to the Secretary.

(c) SOURCE OF FUNDS FOR SETTLEMENT.—To make the payment authorized by subsection (a), the Secretary may use—

(1) funds in the Department of Defense Base Closure Account 1990; or

(2) the proceeds from the sale of the housing units and property described in subsection (b).

**SEC. 2894. REPORT ON ESTABLISHMENT OF MOBILIZATION STATION AT CAMP RIPLEY NATIONAL GUARD TRAINING CENTER, LITTLE FALLS, MINNESOTA.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report regarding the feasibility of using Camp Ripley National Guard Training Center in Little Falls, Minnesota, as a mobilization station for members of a reserve component ordered to active duty under any provision of law specified in section 101(a)(13)(B) of title 10, United States Code. The report shall include a discussion of the actions necessary to establish the center as a mobilization station.

**SEC. 2895. REPORT ON FEASIBILITY OF ESTABLISHMENT OF VETERANS MEMORIAL AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA.**

Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report on whether the anticipated future uses of the former Marine Corps Air Station, El Toro, California, by the City of Irvine, California, would permit the establishment and maintenance, at no

cost to the United States, of a veterans memorial at the former installation.

**SEC. 2896. SENSE OF CONGRESS REGARDING EFFECT OF MILITARY HOUSING POLICIES AND FORCE STRUCTURE AND BASING CHANGES ON LOCAL EDUCATIONAL AGENCIES.**

(a) FINDINGS.—Congress finds the following:

(1) There are approximately 750,000 school-aged children of members of the active duty Armed Forces in the United States.

(2) Approximately 650,000 of those students are currently attending public elementary or secondary schools in the United States.

(3) Changes to the military family housing policies of the military departments affect both military housing requirements and the number of dependent children living on military installations in the United States.

(4) Proposed restationing of units of the Armed Forces worldwide, including the return of a significant number of members of the Armed Forces stationed overseas to the United States and the Army proposal to modify its force structure to establish so-called units of action, will increase military housing requirements at military installations in the United States and may result in the need for additional educational facilities at such installations and in the adjacent communities.

(5) To help provide sufficient housing for members of the Armed Forces and their families, the Secretaries of the military departments intend to continue to use the authorities provided in subchapter IV of chapter 169 of title 10, United States Code, to carry out privatization initiatives that will improve or replace an additional 120,000 military family housing units in the United States.

(6) The Secretaries of the military departments may include the construction of school facilities as one of the ancillary supporting facilities authorized as part of a privatization initiative carried out under such subchapter.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Defense should—

(1) consider the effects that changes in force structure and overseas stationing arrangements will have on—

(A) military housing requirements at specific military installations in the United States;

(B) the number of school-aged military dependents at those installations; and

(C) the need for additional educational facilities to serve such dependents; and

(2) consult with local communities and local educational agencies about the best ways to address such changing housing requirements and satisfy the need for additional educational facilities, including using the authority of subchapter IV of chapter 169 of title 10, United States Code, to include the construction of educational facilities as one of the ancillary supporting facilities authorized as part of military privatization housing initiatives.

**SEC. 2897. SENSE OF CONGRESS AND STUDY REGARDING MEMORIAL HONORING NON-UNITED STATES CITIZENS KILLED IN THE LINE OF DUTY WHILE SERVING IN THE UNITED STATES ARMED FORCES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that a memorial marker or monument should be designed and placed in an appropriate location to honor the service and sacrifice of individuals who, although not United States citizens, served in the United States Armed Forces and were killed in the line of duty.

(b) STUDY.—The Secretary of the Army, in consultation with the Secretary of Veterans Affairs and the American Battle Monuments Commission, shall conduct a study examining the feasibility of placing in Arlington National Cemetery, or some other appropriate location, a memorial marker honoring the service and sacrifice of non-United States citizens killed in the line of duty while serving in the Armed Forces.

(c) CONTENT OF STUDY.—The study required by subsection (b) shall include the following:

(1) A discussion of the historical development of Arlington National Cemetery.

(2) Comprehensive information on the memorial markers presently located in Arlington National Cemetery.

(3) A description of any limitations affecting the ability to establish new monuments, markers, tributes, or plaques in Arlington National Cemetery.

(4) A discussion of alternative locations outside of Arlington National Cemetery that have been used for comparable memorial markers.

(5) Recommendations for appropriate locations for a memorial marker that may be considered.

(d) REPORT AND RECOMMENDATIONS.—Not later than April 1, 2005, the Secretary of the Army shall submit to the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate a report containing the results of the study required by subsection (b), together with any recommendations for an appropriate plan to honor the service of non-United States citizens killed in the line of duty while serving in the Armed Forces.

# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

# TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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# Subtitle A—National Security Programs Authorizations

### SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for the activities of the National Nuclear Security

Administration in carrying out programs necessary for national security in the amount of $9,082,300,000, to be allocated as follows:

(1) For weapons activities, $6,592,053,000.

(2) For defense nuclear nonproliferation activities, $1,348,647,000.

(3) For naval reactors, $797,900,000.

(4) For the Office of the Administrator for Nuclear Security, $343,700,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for weapons activities, the following new plant projects:

Project 05–D–140, project engineering and design, various locations, $11,600,000.

Project 05–D–160, facilities and infrastructure recapitalization program, project engineering and design, various locations, $8,700,000.

Project 05–D–170, project engineering and design, safeguards and security, various locations, $17,000,000.

Project 05–D–401, production bays upgrade, Pantex Plant, Amarillo, Texas, $25,100,000.

Project 05–D–402, beryllium capability project, Y–12 national security complex, Oak Ridge, Tennessee, $3,627,000.

Project 05–D–601, compressed air upgrades project, Y–12 national security complex, Oak Ridge, Tennessee, $4,400,000.

Project 05–D–602, power grid infrastructure upgrade, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 05–D–603, new master substation, Sandia National Laboratories, Albuquerque, New Mexico, $600,000.

Project 05–D–701, security perimeter, Los Alamos National Laboratory, Los Alamos, New Mexico, $20,000,000.

**SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for defense environmental management activities in carrying out programs necessary for national security in the amount of $6,957,307,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,970,837,000.

(2) For defense environmental services, $986,470,000.

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for other defense activities in carrying out programs necessary for national security in the amount of $636,036,000.

**SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $120,000,000.

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

**SEC. 3111. REPORT ON REQUIREMENTS FOR MODERN PIT FACILITY.**

(a) REPORT.—Not later than January 31, 2005, the Administrator for Nuclear Security shall submit to the congressional defense committees a report setting forth the validated pit production requirements for the Modern Pit Facility.

(b) VALIDATED PIT PRODUCTION REQUIREMENTS.—(1) The validated pit production requirements in the report under subsection (a) shall be established by the Administrator in conjunction with the Chairman of the Nuclear Weapons Council.

(2) The validated pit production requirements shall—

(A) include specifications regarding the total number of pits per year, and the number of pits to be produced per year for each weapon type, that will be required to be produced in order to support the weapons that will be retained in the nuclear weapons stockpile pursuant to the revised nuclear weapons stockpile plan submitted to the congressional defense committees as specified in the joint explanatory statement to accompany the report of the Committee on Conference on the bill H.R. 2754 of the 108th Congress;

(B) identify any surge capacity that may be included in the annual pit production requirements; and

(C) assume that the lifetime of any particular pit type is each of 40 years, 50 years, 60 years, and 70 years.

(c) FORM OF REPORT.—The report under subsection (a) shall be submitted in unclassified form and shall include a classified annex.

**SEC. 3112. TWO-YEAR EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.**

Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking "September 30, 2004" and inserting "September 30, 2006".

**SEC. 3113. LIMITED AUTHORITY TO CARRY OUT NEW PROJECTS UNDER FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM AFTER PROJECT SELECTION DEADLINE.**

(a) LIMITED AUTHORITY TO CARRY OUT NEW PROJECTS.—Section 3114(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1744; 50 U.S.C. 2453 note) is amended—

(1) in the subsection caption, by striking "DEADLINE FOR";

(2) in paragraph (2), by striking "No project" and inserting "Except as provided in paragraph (3), no project"; and

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

"(3)(A) Subject to the provisions of this paragraph, a project described in subparagraph (B) may be carried out under the Facilities and Infrastructure Recapitalization Program after December 31, 2004, if the Administrator approves the project. The Administrator may not delegate the authority to approve projects under the preceding sentence.

"(B) A project described in this subparagraph is a project that consists of a specific building, facility, or other improvement (including fences, roads, or similar improvements).

"(C) Funds may not be obligated or expended for a project under this paragraph until 60 days after the date on which the Administrator submits to the congressional defense committees a notice on the project, including a description of the project and the nature of the project, a statement explaining why the project was not included in the Facilities and Infrastructure Recapitalization Program under paragraph (1), and a statement explaining why the project was not included in any other program under the jurisdiction of the Administrator.

"(D) The total number of projects that may be carried out under this paragraph in any fiscal year may not exceed five projects.

"(E) The Administrator may not utilize the authority in this paragraph until 60 days after the later of—

"(i) the date of the submittal to the congressional defense committees of a list of the projects selected for inclusion in the Facilities and Infrastructure Recapitalization Program under paragraph (1); or

"(ii) the date of the submittal to the congressional defense committees of the report required by subsection (c).

"(F) A project may not be carried out under this paragraph unless the project will be completed by September 30, 2011.".

(b) CONSTRUCTION OF AUTHORITY.—The amendments made by subsection (a) may not be construed to authorize any delay in either of the following:

(1) The selection of projects for inclusion in the Facilities and Infrastructure Recapitalization Program under subsection (a) of section 3114 of the National Defense Authorization Act for Fiscal Year 2004.

(2) The submittal of the report required by subsection (c) of such section.

**SEC. 3114. MODIFICATION OF MILESTONE AND REPORT REQUIREMENTS FOR NATIONAL IGNITION FACILITY.**

(a) NOTIFICATION ON MILESTONES TO ACHIEVE IGNITION.—Subsection (a) of section 3137 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1369) is amended by striking "each Level I milestone and Level II milestone for the National Ignition Facility." and inserting the following: "each milestone for the National Ignition Facility as follows:

"(1) Each Level I milestone.

"(2) Each Level II milestone.

"(3) Each milestone to achieve ignition.".

(b) REPORT ON FAILURE OF TIMELY ACHIEVEMENT OF MILESTONES.—Subsection (b) of such section is amended by striking "a Level I milestone or Level II milestone for the National Ignition Facility" and inserting "a milestone for the National Ignition Facility referred to in subsection (a)".

(c) MILESTONES TO ACHIEVE IGNITION.—Subsection (c) of such section is amended to read as follows:

"(c) MILESTONES.—For purposes of this section:

"(1) 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.

"(2) The milestones for the National Ignition Facility to achieve ignition are such milestones (other than the milestones referred to in paragraph (1)) as the Administrator shall establish on any activities at the National Ignition Facility that are required to enable the National Ignition Facility to achieve ignition and be a fully functioning user facility by December 31, 2011.".

(d) SUBMITTAL TO CONGRESS OF MILESTONES TO ACHIEVE IGNITION.—Not later than January 31, 2005, the Administrator for Nuclear Security shall submit to the congressional defense committees a report setting forth the milestones of the National Ignition Facility to achieve ignition as established by the Administration under subsection (c)(2) of section 3137 of the National Defense Authorization Act for Fiscal Year 2002, as amended by subsection (c) of this section. The report shall include—

(1) a description of each milestone established; and

(2) a proposal for the funding to be required to meet each such milestone.

(e) EXTENSION OF SUNSET.—Subsection (d) of section 3137 of such Act is amended by striking "September 30, 2004" and inserting "December 31, 2011".

**SEC. 3115. MODIFICATION OF SUBMITTAL DATE OF ANNUAL PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN THE NUCLEAR WEAPONS STOCKPILE.**

Section 4203(c) of the Atomic Energy Defense Act (50 U.S.C. 2523(c)) is amended by striking "March 15 of each year thereafter" and inserting "May 1 of each year thereafter".

**SEC. 3116. DEFENSE SITE ACCELERATION COMPLETION.**

(a) IN GENERAL.—Notwithstanding the provisions of the Nuclear Waste Policy Act of 1982, the requirements of section 202 of the Energy Reorganization Act of 1974, and other laws that define classes of radioactive waste, with respect to material stored at a Department of Energy site at which activities are regulated by a covered State pursuant to approved closure plans or permits issued by the State, the term "high-level radioactive waste" does not include radioactive waste resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy (in this section referred to as the "Secretary"), in consultation with the Nuclear Regulatory Commission (in this section referred to as the "Commission"), determines—

(1) does not require permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste;

(2) has had highly radioactive radionuclides removed to the maximum extent practical; and

(3)(A) does not exceed concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, and will be disposed of—

(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations; and

(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; or

(B) exceeds concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, but will be disposed of—

(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations;

(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; and

(iii) pursuant to plans developed by the Secretary in consultation with the Commission.

(b) MONITORING BY NUCLEAR REGULATORY COMMISSION.—(1) The Commission shall, in coordination with the covered State, monitor disposal actions taken by the Department of Energy pursuant to subparagraphs (A) and (B) of subsection (a)(3) for the purpose of assessing compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations.

(2) If the Commission considers any disposal actions taken by the Department of Energy pursuant to those subparagraphs to be not in compliance with those performance objectives, the Commission shall, as soon as practicable after discovery of the noncompliant conditions, inform the Department of Energy, the covered State, and the following congressional committees:

(A) The Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives.

(B) The Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate.

(3) For fiscal year 2005, the Secretary shall, from amounts available for defense site acceleration completion, reimburse the Commission for all expenses, including salaries, that the Commission incurs as a result of performance under subsection (a) and this subsection for fiscal year 2005. The Department of Energy and the Commission may enter into an interagency agreement that specifies the method of reimbursement. Amounts received by the Commission for performance under subsection (a) and this subsection may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, United States Code, and shall remain available until expended.

(4) For fiscal years after 2005, the Commission shall include in the budget justification materials submitted to Congress in support of the Commission budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) the amounts required, not offset by revenues, for performance under subsection (a) and this subsection.

(c) INAPPLICABILITY TO CERTAIN MATERIALS.—Subsection (a) shall not apply to any material otherwise covered by that subsection that is transported from the covered State.

(d) COVERED STATES.—For purposes of this section, the following States are covered States:

(1) The State of South Carolina.

(2) The State of Idaho.

(e) CONSTRUCTION.—(1) Nothing in this section shall impair, alter, or modify the full implementation of any Federal Facility Agreement and Consent Order or other applicable consent decree for a Department of Energy site.

(2) Nothing in this section establishes any precedent or is binding on the State of Washington, the State of Oregon, or any other State not covered by subsection (d) for the management, storage, treatment, and disposition of radioactive and hazardous materials.

(3) Nothing in this section amends the definition of "transuranic waste" or regulations for repository disposal of transuranic waste pursuant to the Waste Isolation Pilot Plant Land Withdrawal Act or part 191 of title 40, Code of Federal Regulations.

(4) Nothing in this section shall be construed to affect in any way the obligations of the Department of Energy to comply with section 4306A of the Atomic Energy Defense Act (50 U.S.C. 2567).

(5) Nothing in this section amends the West Valley Demonstration Act (42 U.S.C. 2121a note).

(f) JUDICIAL REVIEW.—Judicial review shall be available in accordance with chapter 7 of title 5, United States Code, for the following:

(1) Any determination made by the Secretary or any other agency action taken by the Secretary pursuant to this section.

(2) Any failure of the Commission to carry out its responsibilities under subsection (b).

**SEC. 3117. TREATMENT OF WASTE MATERIAL.**

Of the amounts made available pursuant to the authorization of appropriations in section 3102(1) for environmental management for defense site acceleration completion for the High-Level Waste Proposal, $350,000,000 shall be available at specified sites for any defense site acceleration completion activities at those sites, as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho, $97,300,000.

(2) The Savannah River Site, Aiken, South Carolina, $188,600,000.

(3) The Hanford Site, Richland, Washington, $64,100,000.

**SEC. 3118. LOCAL STAKEHOLDER ORGANIZATIONS FOR 2006 CLOSURE SITES.**

(a) ESTABLISHMENT.—(1) The Secretary of Energy shall establish for each Department of Energy 2006 closure site a local stakeholder organization having the responsibilities set forth in subsection (c).

(2) The local stakeholder organization shall be established in consultation with interested elected officials of local governments in the vicinity of the closure site concerned.

(b) COMPOSITION.—A local stakeholder organization for a Department of Energy 2006 closure site under subsection (a) shall be composed of such elected officials of local governments in the vicinity of the closure site concerned as the Secretary considers appropriate to carry out the responsibilities set forth in subsection (c) who agree to serve on the organization, or the designees of such officials.

(c) RESPONSIBILITIES.—A local stakeholder organization for a Department of Energy 2006 closure site under subsection (a) shall—

(1) solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site;

(2) disseminate information on the closure and post-closure operations of the site to the State government of the State in which the site is located, local and tribal governments in the vicinity of the site, and persons and entities having a stake in the closure or post-closure operations of the site;

(3) transmit to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site; and

(4) perform such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.

(d) DEADLINE FOR ESTABLISHMENT.—The local stakeholder organization for a Department of Energy 2006 closure site shall be established not later than six months before the closure of the site.

(e) DEPARTMENT OF ENERGY 2006 CLOSURE SITE DEFINED.—In this section, the term "Department of Energy 2006 closure site" means the following:

(1) The Rocky Flats Environmental Technology Site, Colorado.

(2) The Fernald Plant, Ohio.

(3) The Mound Plant, Ohio.

**SEC. 3119. REPORT TO CONGRESS ON ADVANCED NUCLEAR WEAPONS CONCEPTS INITIATIVE.**

(a) REPORT REQUIRED.—Not later than March 1, 2005, the Administrator for Nuclear Security shall submit to the congressional defense committees a detailed report on the planned activities for studies under the Advanced Nuclear Weapons Concepts Initiative for fiscal year 2005.

(b) FORM OF REPORT.—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

## Subtitle C—Proliferation Matters

**SEC. 3131. MODIFICATION OF AUTHORITY TO USE INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM FUNDS OUTSIDE THE FORMER SOVIET UNION.**

(a) APPLICABILITY OF AUTHORITY LIMITED TO PROJECTS NOT PREVIOUSLY AUTHORIZED.—Subsection (a) of section 3124 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1747) is amended by inserting "that has not previously been authorized by Congress" after "states of the former Soviet Union".

(b) REPEAL OF LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—Such section is further amended—

(1) by striking subsection (c); and

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

(c) APPLICABILITY BEYOND FISCAL YEAR 2004.—Subsection (e) of such section (as redesignated by subsection (b)) is amended by striking "the funds appropriated pursuant to the authorization of appropriations in section 3101(a)(2) for such program" and inserting "the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program".

**SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.**

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials, radiological materials, and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, non-governmental organizations, and other international entities as the Secretary of Energy considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary of Energy shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report on the program under subsection (b) that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) DEFINITIONS.—In this section:

(1) The term "fissile materials" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term "radiological materials" includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226, Strontium-90, Curium-244, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term "related equipment" includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term "highly-enriched uranium" means uranium enriched to or above 20 percent in the isotope 235.

(5) The term "low-enriched uranium" means uranium enriched below 20 percent in the isotope 235.

(6) The term "proliferation-attractive", in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

**SEC. 3133. SILK ROAD INITIATIVE.**

(a) PROGRAM AUTHORIZED.—(1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initiative, to promote non-weapons-related employment opportunities for scientists, engineers, and technicians formerly engaged in activities to develop and produce weapons of mass destruction in Silk Road nations. The program should—

(A) incorporate best practices under the Initiatives for Proliferation Prevention program; and

(B) facilitate commercial partnerships between private entities in the United States and scientists, engineers, and technicians in the Silk Road nations.

(2) Before implementing the program with respect to multiple Silk Road nations, the Secretary of Energy shall carry out a pilot program with respect to one Silk Road nation selected by the Secretary. It is the sense of Congress that the Secretary should select the Republic of Georgia.

(b) SILK ROAD NATIONS DEFINED.—In this section, the Silk Road nations are Armenia, Azerbaijan, the Republic of Georgia,

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(c) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, up to $10,000,000 may be used to carry out this section.

**SEC. 3134. NUCLEAR NONPROLIFERATION FELLOWSHIPS FOR SCIENTISTS EMPLOYED BY UNITED STATES AND RUSSIAN FEDERATION.**

(a) IN GENERAL.—(1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at nonproliferation research laboratories of the Russian Federation and the United States, international exchange fellowships, to be known as Nuclear Nonproliferation Fellowships, in the nuclear nonproliferation sciences.

(2) The purpose of the program shall be to provide opportunities for advancement in the nuclear nonproliferation sciences to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in those sciences.

(3) A fellowship awarded to a scientist under the program shall be for collaborative study and training or advanced research at—

(A) a nonproliferation research laboratory of the Russian Federation, in the case of a scientist employed at a nonproliferation research laboratory of the United States; and

(B) a nonproliferation research laboratory of the United States, in the case of a scientist employed at a nonproliferation research laboratory of the Russian Federation.

(4) The duration of a fellowship under the program may not exceed two years, except that the Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.

(5) In a calendar year, the Administrator may not award more than—

(A) one fellowship to a scientist employed at a nonproliferation research laboratory of the Russian Federation; and

(B) one fellowship to a scientist employed at a nonproliferation research laboratory of the United States.

(6) A fellowship under the program shall include—

(A) travel expenses; and

(B) any other expenses that the Administrator considers appropriate, such as room and board.

(b) DEFINITIONS.—In this section:

(1) The term "nonproliferation research laboratory" means, with respect to a country, a national laboratory of that country at which research in the nuclear nonproliferation sciences is carried out.

(2) The term "nuclear nonproliferation sciences" means bodies of scientific knowledge relevant to developing or advancing the means to prevent or impede the proliferation of nuclear weaponry.

(3) The term "scientist" means an individual who has a degree from an institution of higher education in a science

that has practical application in the nuclear nonproliferation sciences.

(c) FUNDING.—Amounts available to the Department of Energy for defense nuclear nonproliferation activities shall be available for the fellowships authorized by subsection (a).

**SEC. 3135. UTILIZATION OF INTERNATIONAL CONTRIBUTIONS TO THE ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION PROGRAM.**

Section 3151 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2736; 22 U.S.C. 5952 note) is amended by adding at the end the following new subsection:

"(e) INTERNATIONAL PARTICIPATION IN PROGRAM.—(1) In order to achieve international participation in the program referred to in subsection (a), the Secretary of Energy may, in consultation with the Secretary of State, enter into one or more agreements with any person, foreign government, or other international organization that the Secretary considers appropriate for the contribution of funds by such person, government, or organization for purposes of the program.

"(2) Notwithstanding section 3302 of title 31, United States Code, and subject to paragraphs (3) and (4), the Secretary may retain and utilize any amounts contributed by a person, government, or organization under an agreement under paragraph (1) for purposes of the program without further appropriation and without fiscal year limitation.

"(3) The Secretary may not utilize under paragraph (2) any amount contributed under an agreement under paragraph (1) until 30 days after the date on which the Secretary notifies the congressional defense committees of the intent to utilize such amount, including the source of such amount and the proposed purpose for which such amount will be utilized.

"(4) If any amount contributed under paragraph (1) has not been utilized within five years of receipt under that paragraph, the Secretary shall return such amount to the person, government, or organization contributing such amount under that paragraph.

"(5) Not later than 30 days after the receipt of any amount contributed under paragraph (1), the Secretary shall submit to the congressional defense committees a notice of the receipt of such amount.

"(6) Not later than October 31 each year, the Secretary shall submit to the congressional defense committees a report on the receipt and utilization of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

"(A) a statement of any amounts received under this subsection, including the source of each such amount; and

"(B) a statement of any amounts utilized under this subsection, including the purpose for which such amounts were utilized.

"(7) The authority of the Secretary to accept and utilize amounts under this subsection shall expire on December 31, 2011.".

## Subtitle D—Other Matters

**SEC. 3141. INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.**

Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking "until December 31, 2004" and inserting "until December 31, 2006".

**SEC. 3142. REPORT ON MAINTENANCE OF RETIREMENT BENEFITS FOR CERTAIN WORKERS AT 2006 CLOSURE SITES AFTER CLOSURE OF SITES.**

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary of Energy for Environmental Management shall submit to the Secretary of Energy a report on the maintenance of retirement benefits for workers at Department of Energy 2006 closure sites after closure of such sites.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) The number of workers at Department of Energy 2006 closure sites who would be eligible for regular or early retirement benefits if such sites close on or after their target completion dates, but who would not be eligible for regular or early retirement benefits if such sites close before their target completion dates (by calendar quarter).

(2) The cost of providing regular or full retirement benefits, after the closure of Department of Energy 2006 closure sites, to workers at such sites who would fail to qualify for regular or early retirement benefits because of the early closure of such sites (by calendar quarter).

(3) The impact on collective-bargaining agreements and any applicable retirement benefit plan documents covering workers at Department of Energy 2006 closure sites of providing regular or early retirement benefits as set forth herein.

(c) TRANSMITTAL TO CONGRESS.—Not later than 30 days after receiving the report under subsection (a), the Secretary shall transmit the report to Congress, together with such recommendations, including recommendations for legislative action, as the Secretary considers appropriate.

(d) DEFINITIONS.—In this section:

(1) The term "Department of Energy 2006 closure site" means the following:

(A) The Rocky Flats Environmental Technology Site, Colorado.

(B) The Fernald Plant, Ohio.

(C) The Mound Plant, Ohio.

(2) The term "worker" means any employee who is employed by contract or first or second tier subcontract to perform cleanup, security, or administrative duties or responsibilities at a Department of Energy 2006 closure site.

(3) The term "retirement benefits" means pension, health, and other similar post-retirement benefits.

(4) The term "target completion date", with respect to a Department of Energy 2006 closure site, means the physical completion date specified in the site contracts.

**SEC. 3143. REPORT ON EFFORTS OF NATIONAL NUCLEAR SECURITY ADMINISTRATION TO UNDERSTAND PLUTONIUM AGING.**

(a) STUDY.—(1) The Administrator for Nuclear Security shall enter into a contract with a Federally Funded Research and Development Center (FFRDC) providing for a study to assess the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons.

(2) The Administrator shall make available to the FFRDC contractor under this subsection all information that is necessary for the contractor to successfully complete a meaningful study on a timely basis.

(b) REPORT REQUIRED.—(1) Not later than two years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the findings of the study required by subsection (a)(1).

(2) The report shall include the recommendations of the study for improving the knowledge, understanding, and application of the fundamental and applied sciences related to the study of plutonium aging.

(3) The report shall be submitted in unclassified form, but may include a classified annex.

**SEC. 3144. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.**

The Secretary of Energy shall require that the primary management and operations contract for Los Alamos National Laboratory, New Mexico, that involves Laboratory operations after September 30, 2005, shall contain terms requiring the contractor under such contract to provide support to the Los Alamos Public School District, New Mexico, for the elementary and secondary education of students in the school district in the amount of $8,000,000 in each fiscal year.

**SEC. 3145. REVIEW OF WASTE ISOLATION PILOT PLANT, NEW MEXICO, PURSUANT TO COMPETITIVE CONTRACT.**

(a) CONTRACT REQUIREMENT.—The Secretary of Energy shall use competitive procedures to enter into a contract to conduct independent reviews and evaluations of the design, construction, and operations of the Waste Isolation Pilot Plant in New Mexico (in this section referred to as the "WIPP") as they relate to the protection of the public health and safety and the environment. The contract shall be for a period of one year, beginning on October 1, 2004, and shall be renewable for four additional one-year periods with the consent of the contractor and subject to the authorization and appropriation of funds for such purpose.

(b) CONTENT OF CONTRACT.—A contract entered into under subsection (a) shall require the following:

(1) The contractor shall appoint a Director and Deputy Director, who shall be scientists of national eminence in the field of nuclear waste disposal, shall be free from any biases related to the activities of the WIPP, and shall be widely known for their integrity and scientific expertise.

(2) The Director shall appoint staff. The professional staff shall consist of scientists and engineers of recognized integrity and scientific expertise who represent scientific and engineering disciplines needed for a thorough review of the WIPP, including

disciplines such as geology, hydrology, health physics, environmental engineering, probability risk analysis, mining engineering, and radiation chemistry. The disciplines represented in the staff shall change as may be necessary to meet changed needs in carrying out the contract for expertise in any certain scientific or engineering discipline. Scientists and engineers employed under the contract shall have qualifications and experience equivalent to the qualifications and experience required for scientists and engineers employed by the Federal Government in grades GS–13 through GS–15.

(3) Scientists and engineers employed under the contract shall have an appropriate support staff.

(4) The Director and Deputy Director shall each be appointed for a term of 5 years, subject to contract renewal, and may be removed only for misconduct or incompetence. The staff shall be appointed for such terms as the Director considers appropriate.

(5) The rates of pay of professional staff and the procedures for increasing the rates of pay of professional staff shall be equivalent to those rates and procedures provided for the General Schedule pay system under chapter 53 of title 5, United States Code.

(6) The results of reviews and evaluations carried out under the contract shall be published.

(c) ADMINISTRATION.—The contractor shall establish general policies and guidelines to be used by the Director in carrying out the work under the contract.

**SEC. 3146. NATIONAL ACADEMY OF SCIENCES STUDY ON MANAGEMENT BY DEPARTMENT OF ENERGY OF CERTAIN RADIOACTIVE WASTE STREAMS.**

(a) STUDY REQUIRED.—The Secretary of Energy shall, as soon as practicable, enter into an arrangement with the National Research Council of the National Academy of Sciences to carry out a study of the plans of the Department of Energy to manage those waste streams specified in subsection (b) that—

(1) exceed the concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations; and

(2) the Department plans to dispose of on the sites specified in subsection (b)(3) rather than in a repository for spent nuclear fuel and high-level waste.

(b) COVERED WASTE STREAMS.—The waste streams referred to in subsection (a) are the streams of waste, from reprocessed spent nuclear fuel, that—

(1) exceed the concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations;

(2) the Department does not plan for disposal in a repository for spent nuclear fuel and high-level waste; and

(3) are stored in tanks at the following sites:

(A) The Savannah River Site, South Carolina.

(B) The Idaho National Engineering Laboratory, Idaho.

(C) The Hanford Reservation, Washington.

(c) MATTERS INCLUDED.—The study required by subsection (a) shall evaluate—

(1) the state of the Department's understanding of the physical, chemical, and radiological characteristics of the waste referred to in subsection (b), including an assessment of data uncertainties;

(2) any actions additional to those contained in current plans that the Department should consider to ensure that the plans referred to in subsection (a) will comply with the performance objectives of part 61 of title 10, Code of Federal Regulations;

(3) the adequacy of the Department's plans for monitoring disposal sites and the surrounding environment to verify compliance with those performance objectives;

(4) existing technology alternatives to the plans referred to in subsection (a) and, for each such alternative, an assessment of the cost, consequences for worker safety, and long-term consequences for environmental and human health;

(5) any technology gaps that exist to effect improved efficiency in removal and treatment of waste from the tanks referred to in subsection (b)(3); and

(6) any other matters that the National Research Council considers appropriate and directly related to the subject matter of the study.

(d) RECOMMENDATIONS.—In carrying out the study required by subsection (a), the National Research Council may develop recommendations it considers appropriate and directly related to the subject matter of the study. It is the sense of Congress that the National Research Council should develop recommendations on—

(1) improvements to the scientific and technical basis for managing the waste covered by the study, including the identification of technology alternatives and mitigation of technology gaps; and

(2) the best means of monitoring any on-site disposal sites from the waste streams referred to in subsection (b), to include soil, groundwater, and surface water monitoring.

(e) REPORTS.—(1) The National Research Council shall submit to the Secretary of Energy and the congressional committees described in paragraph (2)—

(A) not later than six months after entering into the arrangement required by subsection (a), an interim report on the study that, with respect to the requirements of subsection (c)(2), specifically addresses any additional actions the Department should consider to ensure that the Department's plans for the Savannah River Site, including plans for grouting of tanks, will comply with the performance objectives referred to in that subsection in a more effective manner; and

(B) not later than one year after entering into the arrangement required by subsection (a), a final report on the study that includes all findings, conclusions, and recommendations.

(2) The congressional committees referred to in paragraph (1) are as follows:

(A) The Committee on Appropriations, Committee on Armed Services, and Committee on Energy and Commerce of the House of Representatives.

(B) The Committee on Appropriations, Committee on Armed Services, Committee on Energy and Natural Resources, and Committee on Environment and Public Works of the Senate.

(f) PROVISION OF INFORMATION.—The Secretary of Energy shall, in a timely manner, make available to the National Research Council all information that the National Research Council considers necessary to carry out its responsibilities under this section.

(g) RULE OF CONSTRUCTION.—This section shall not be construed to affect section 3116.

(h) FUNDING.—Of the amounts made available to the Department of Energy pursuant to the authorization of appropriations in section 3102, $1,500,000 shall be available only for carrying out the study required by this section.

**SEC. 3147. COMPENSATION OF PAJARITO PLATEAU, NEW MEXICO, HOMESTEADERS FOR ACQUISITION OF LANDS FOR MANHATTAN PROJECT IN WORLD WAR II.**

(a) ESTABLISHMENT OF COMPENSATION FUND.—There is established in the Treasury of the United States a fund to be known as the Pajarito Plateau Homesteaders Compensation Fund (in this section referred to as the "Fund"). The Fund shall be dedicated to the settlement of the two lawsuits in the United States District Court for the District of New Mexico consolidated as Civ. No. 00–60.

(b) ELEMENTS OF FUND.—The Fund shall consist of the following:

(1) Amounts available for deposit in the Fund under subsection (j).

(2) Interest earned on amounts in the Fund under subsection (g).

(c) USE OF FUND.—The Fund shall be available for the settlement of the consolidated lawsuits in accordance with the following requirements:

(1) The settlement shall be subject to preliminary and final approval by the Court in accordance with rule 23(e) of the Federal Rules of Civil Procedure.

(2) The Court shall appoint a special master in accordance with rule 53 of the Federal Rules of Civil Procedure to—

(A) identify class members;

(B) receive claims from class members so identified;

(C) determine in accordance with subsection (d) eligible claimants from among class members so identified;

(D) resolve contests, if any, among claimants with respect to a particular eligible tract, regarding the disbursement of monies in the Fund with respect to that eligible tract; and

(E) address such other matters as the Court may order.

(3) Lead counsel for claimants shall provide evidence to the special master to assist the special master in the duties set forth in paragraph (2).

(4) If more than 10 percent of the class members object to the settlement, or the Court fails to approve the settlement—

(A) the Fund shall not serve as the basis for the settlement of the consolidated lawsuits and the provisions of this section shall have no further force or effect; and

(B) amounts in the Fund shall not be disbursed, but shall be retained in the Treasury as miscellaneous receipts.

(5) The Court may award compensation for the special master and attorney fees and expenses from the Fund pursuant to rule 23 of the Federal Rules of Civil Procedure, except

that the award of attorney fees may not exceed 20 percent of the Fund and the award of expenses may not exceed 2 percent of the Fund. Any compensation and attorney fees and expenses so paid shall be paid from the Fund by the Court before distribution of the amount in the Fund to eligible claimants entitled thereto.

(6) The Fund shall be available to pay settlement awards in accordance with the following:

(A) The balance of the amount of the Fund that is available for disbursement after any award of attorney fees and expenses under paragraph (5) shall be allocated proportionally by eligible tract according to its acreage as compared with all eligible tracts.

(B) The allocation for each eligible tract shall be allocated pro rata among all eligible claimants having an interest in such eligible tract according to the extent of their interest in such eligible tract, as determined under the laws of the State of New Mexico.

(7) The special master shall disburse the allocated amounts from the Fund after approval by the Court.

(8) Any amounts available for disbursement with respect to an eligible tract that are not awarded to eligible claimants with respect to that tract shall be retained in the Treasury as miscellaneous receipts.

(d) ELIGIBLE CLAIMANTS.—(1) For purposes of this section, an eligible claimant is any class member determined by the Court, by a preponderance of evidence, to be a person or entity who held a fee simple ownership in an eligible tract at the time of its acquisition by the United States during World War II for use in the Manhattan Project, or the heir, successor in interest, assignee, or beneficiary of such a person or entity.

(2) The status of a person or entity as an heir, successor in interest, assignee, or beneficiary for purposes of this subsection shall be determined under the laws of the State of New Mexico, including the descent and distribution law of the State of New Mexico.

(e) FULL RESOLUTION OF CLAIMS AGAINST UNITED STATES.—(1) The acceptance of a disbursement from the Fund by an eligible claimant under this section shall constitute a final and complete release of the defendants in the consolidated lawsuits with respect to such eligible claimant, and shall be in full satisfaction of any and all claims of such eligible claimant against the United States arising out of acts described in the consolidated lawsuits.

(2) Upon the disbursement of the amount in the Fund to eligible claimants entitled thereto under this section, the Court shall, subject to the provisions of rule 23(e) of the Federal Rules of Civil Procedure, enter a final judgment dismissing with prejudice the consolidated lawsuits and all claims and potential claims on matters covered by the consolidated lawsuits.

(f) COMPENSATION LIMITED TO AMOUNTS IN FUND.—(1) An eligible claimant may be paid under this section only from amounts in the Fund.

(2) Nothing in this section shall authorize the payment to a class member by the United States Government of any amount authorized by this section from any source other than the Fund.

(g) INVESTMENT OF FUND.—(1) The Secretary of the Treasury shall, in accordance with the requirements of section 9702 of title

31, United States Code, and the provisions of this subsection, direct the form and manner by which the Fund shall be safeguarded and invested so as to maximize its safety while earning a return comparable to other common funds in which the United States Treasury is the source of payment.

(2) Interest on the amount deposited in the Fund shall accrue from the date of the enactment of the Act appropriating amounts for deposit in the Fund until the date on which the Secretary of the Treasury disburses the amount in the Fund to eligible claimants who are entitled thereto under subsection (c).

(h) PRESERVATION OF RECORDS.—(1) All documents, personal testimony, and other records created or received by the Court in the consolidated lawsuits shall be kept and maintained by the Archivist of the United States, who shall preserve such documents, testimony, and records in the National Archives of the United States.

(2) The Archivist shall make available to the public the materials kept and maintained under paragraph (1).

(i) DEFINITIONS.—In this section:

(1) The term "Court" means the United States District Court for the District of New Mexico having jurisdiction over the consolidated lawsuits.

(2) The term "consolidated lawsuits" means the two lawsuits in the United States District Court for the District of New Mexico consolidated as Civ. No. 00–60.

(3)(A) The term "eligible tract" means private real property located on the Pajarito Plateau of what is now Los Alamos County, New Mexico, that was acquired by the United States during World War II for use in the Manhattan Project and which is the subject of the consolidated lawsuits.

(B) The term does not include lands of the Los Alamos Ranch School and of the A.M. Ross Estate (doing business as Anchor Ranch).

(4) The term "class member" means the following:

(A) Any person or entity who claims to have held a fee simple ownership in an eligible tract at the time of its acquisition by the United States during World War II for use in the Manhattan Project.

(B) Any person or entity claiming to be the heir, successor in interest, assignee, or beneficiary of a person or entity who held a fee simple ownership in an eligible tract at the time of its acquisition by the United States during World War II for use in the Manhattan Project.

(j) FUNDING.—Of the amount authorized to be appropriated by section 3101(a)(4) for the National Nuclear Security Administration for the Office of the Administrator for Nuclear Security, $10,000,000 shall be available for deposit in the Fund under subsection (b)(1).

**SEC. 3148. MODIFICATION OF REQUIREMENTS RELATING TO CONVEYANCES AND TRANSFER OF CERTAIN LAND AT LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.**

Section 632(a) of Public Law 105–119 (111 Stat. 2523; 42 U.S.C. 2391 note) is amended—

(1) in paragraph (1)—

(A) by inserting "except as provided in paragraph (2)," before "convey"; and

(B) by striking "and" at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

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

"(2) notwithstanding paragraph (1) and the agreement under subsection (e), convey, without consideration, to the Board of Education of the Los Alamos Public Schools, New Mexico, within the County, fee title to the parcels of land identified by the Department of Energy as Parcel A–8 and Parcel A–15–1 that are currently located in Technical Area–21 of Los Alamos National Laboratory upon the entry of Los Alamos Public Schools and the County into an agreement for the use of the parcel of land identified as Parcel A–8; and".

## Subtitle E—Energy Employees Occupational Illness Compensation Program

**SEC. 3161. CONTRACTOR EMPLOYEE COMPENSATION.**

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)) is amended by adding after subtitle D (42 U.S.C. 7385o) the following new title:

## "Subtitle E—Contractor Employee Compensation

**"SEC. 3671. DEFINITIONS.**

"In this subtitle:

"(1) The term 'covered DOE contractor employee' means any Department of Energy contractor employee determined under section 3675 to have contracted a covered illness through exposure at a Department of Energy facility.

"(2) The term 'covered illness' means an illness or death resulting from exposure to a toxic substance.

"(3) The term 'Secretary' means the Secretary of Labor.

**"SEC. 3672. COMPENSATION TO BE PROVIDED.**

"Subject to the other provisions of this subtitle:

"(1) CONTRACTOR EMPLOYEES.—A covered DOE contractor employee shall receive contractor employee compensation under this subtitle in accordance with section 3673.

"(2) SURVIVORS.—After the death of a covered DOE contractor employee, compensation referred to in paragraph (1) shall not be paid. Instead, the survivor of that employee shall receive compensation as follows:

"(A) Except as provided in subparagraph (B), the survivor of that employee shall receive contractor employee compensation under this subtitle in accordance with section 3674.

"(B) In a case in which the employee's death occurred after the employee applied under this subtitle and before compensation was paid under paragraph (1), and the employee's death occurred from a cause other than the

covered illness of the employee, the survivor of that employee may elect to receive, in lieu of compensation under subparagraph (A), the amount of contractor employee compensation that the employee would have received in accordance with section 3673 if the employee's death had not occurred before compensation was paid under paragraph (1).

**"SEC. 3673. COMPENSATION SCHEDULE FOR CONTRACTOR EMPLOYEES.**

"(a) COMPENSATION PROVIDED.—The amount of contractor employee compensation under this subtitle for a covered DOE contractor employee shall be the sum of the amounts determined under paragraphs (1) and (2), as follows:

"(1) IMPAIRMENT.—(A) The Secretary shall determine—

"(i) the minimum impairment rating of that employee, expressed as a number of percentage points; and

"(ii) the number of those points that are the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility.

"(B) The employee shall receive an amount under this paragraph equal to $2,500 multiplied by the number referred to in clause (ii) of subparagraph (A).

"(2) WAGE LOSS.—(A) The Secretary shall determine—

"(i) the calendar month during which the employee first experienced wage loss as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility;

"(ii) the average annual wage of the employee for the 36-month period immediately preceding the calendar month referred to in clause (i), excluding any portions of that period during which the employee was unemployed; and

"(iii) beginning with the calendar year that includes the calendar month referred to in clause (i), through and including the calendar year during which the employee attained normal retirement age (for purposes of the Social Security Act)—

"(I) the number of calendar years during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage exceeded 50 percent of the average annual wage determined under clause (ii), but did not exceed 75 percent of the average annual wage determined under clause (ii); and

"(II) the number of calendar years during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage did not exceed 50 percent of the average annual wage determined under clause (ii).

"(B) The employee shall receive an amount under this paragraph equal to the sum of—

"(i) $10,000 multiplied by the number referred to in clause (iii)(I) of subparagraph (A); and

"(ii) $15,000 multiplied by the number referred to in clause (iii)(II) of subparagraph (A).

"(b) DETERMINATION OF MINIMUM IMPAIRMENT RATING.—For purposes of subsection (a), a minimum impairment rating shall be determined in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment.

**"SEC. 3674. COMPENSATION SCHEDULE FOR SURVIVORS.**

"(a) CATEGORIES OF COMPENSATION.—The amount of contractor employee compensation under this subtitle for the survivor of a covered DOE contractor employee shall be determined as follows:

"(1) CATEGORY ONE.—The survivor shall receive the amount of $125,000, if the Secretary determines that—

"(A) the employee would have been entitled to compensation under section 3675 for a covered illness; and

"(B) it is at least as likely as not that exposure to a toxic substance at a Department of Energy facility was a significant factor in aggravating, contributing to, or causing the death of such employee.

"(2) CATEGORY TWO.—The survivor shall receive the amount of $150,000, if paragraph (1) applies to the employee and the Secretary also determines that there was an aggregate period of not less than 10 years, before the employee attained normal retirement age (for purposes of the Social Security Act), during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage did not exceed 50 percent of the average annual wage of that employee, as determined under section 3673(a)(2)(A)(ii).

"(3) CATEGORY THREE.—The survivor shall receive the amount of $175,000, if paragraph (1) applies to the employee and the Secretary also determines that there was an aggregate period of not less than 20 years, before the employee attained normal retirement age (for purposes of the Social Security Act), during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage did not exceed 50 percent of the average annual wage of that employee, as determined under section 3673(a)(2)(A)(ii).

"(b) ONE AMOUNT ONLY.—The survivor of a covered DOE contractor employee to whom more than one amount under subsection (a) applies shall receive only the highest such amount.

"(c) DETERMINATION AND ALLOCATION OF SHARES.—The amount under subsection (a) shall be paid only as follows:

"(1) If a covered spouse is alive at the time of payment, such payment shall be made to such surviving spouse.

"(2) If there is no covered spouse described in paragraph (1), such payment shall be made in equal shares to all covered children who are alive at the time of payment.

"(3) Notwithstanding the other provisions of this subsection, if there is—

"(A) a covered spouse described in paragraph (1); and

"(B) at least one covered child of the employee who is living at the time of payment and who is not a recognized natural child or adopted child of such covered spouse,

then half of such payment shall be made to such covered spouse, and the other half of such payment shall be made

in equal shares to each covered child of the employee who is living at the time of payment.

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered spouse' means a spouse of the employee who was married to the employee for at least one year immediately before the employee's death.

"(2) The term 'covered child' means a child of the employee who, as of the employee's death—

"(A) had not attained the age of 18 years;

"(B) had not attained the age of 23 years and was a full-time student who had been continuously enrolled as a full-time student in one or more educational institutions since attaining the age of 18 years; or

"(C) had been incapable of self-support.

"(3) The term 'child' includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child.

**"SEC. 3675. DETERMINATIONS REGARDING CONTRACTION OF COVERED ILLNESSES.**

"(a) CASES DETERMINED UNDER SUBTITLE B.—A determination under subtitle B that a Department of Energy contractor employee is entitled to compensation under that subtitle for an occupational illness shall be treated for purposes of this subtitle as a determination that the employee contracted that illness through exposure at a Department of Energy facility.

"(b) CASES DETERMINED UNDER FORMER SUBTITLE D.—In the case of a covered illness of an employee with respect to which a panel has made a positive determination under section 3661(d) and the Secretary of Energy has accepted that determination under section 3661(e)(2), or with respect to which a panel has made a negative determination under section 3661(d) and the Secretary of Energy has found significant evidence to the contrary under section 3661(e)(2), that determination shall be treated for purposes of this subtitle as a determination that the employee contracted the covered illness through exposure at a Department of Energy facility.

"(c) OTHER CASES.—(1) In any other case, a Department of Energy contractor employee shall be determined for purposes of this subtitle to have contracted a covered illness through exposure at a Department of Energy facility if—

"(A) it is at least as likely as not that exposure to a toxic substance at a Department of Energy facility was a significant factor in aggravating, contributing to, or causing the illness; and

"(B) it is at least as likely as not that the exposure to such toxic substance was related to employment at a Department of Energy facility.

"(2) A determination under paragraph (1) shall be made by the Secretary.

"(d) APPLICATIONS BY SPOUSES AND CHILDREN.—If a spouse or child of a Department of Energy contractor employee applies for benefits under this subtitle, the Secretary shall make a determination under this section with respect to that employee without regard to whether the spouse is a 'covered spouse', or the child is a 'covered child', under this subtitle.

**"SEC. 3676. APPLICABILITY TO CERTAIN URANIUM EMPLOYEES.**

"(a) IN GENERAL.—This subtitle shall apply to—

"(1) a section 5 payment recipient who contracted a section 5 illness through a section 5 exposure at a section 5 facility, or

"(2) a section 5 uranium worker determined under section 3675(c) to have contracted a covered illness through exposure to a toxic substance at a section 5 mine or mill,

(or to the survivor of that employee, as applicable) on the same basis as it applies to a Department of Energy contractor employee determined under section 3675 to have contracted a covered illness through exposure to a toxic substance at a Department of Energy facility (or to the survivor of that employee, as applicable).

"(b) DEFINITIONS.—In this section:

"(1) The term 'section 5 payment recipient' means an individual who receives, or has received, $100,000 under section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) for a claim made under that Act.

"(2) The terms 'section 5 exposure', 'section 5 facility', and 'section 5 illness' mean the exposure, facility, and illness, respectively, to which an individual's status as a section 5 payment recipient relates.

"(3) The term 'section 5 uranium worker' means an individual to whom subsection (a)(1)(A)(i) of section 5 of the Radiation Exposure Compensation Act applies (whether directly or by reason of subsection (a)(2)).

"(4) The term 'section 5 mine or mill' means the mine or mill to which an individual's status as a section 5 uranium worker relates.

**"SEC. 3677. ADMINISTRATIVE AND JUDICIAL REVIEW.**

"(a) JUDICIAL REVIEW.—A person adversely affected or aggrieved by a final decision of the Secretary under this subtitle may review that order in the United States district court in the district in which the injury was sustained, the employee lives, the survivor lives, or the District of Columbia, by filing in such court within 60 days after the date on which that final decision was issued a written petition praying that such decision be modified or set aside. The person shall also provide a copy of the petition to the Secretary. Upon such filing, the court shall have jurisdiction over the proceeding and shall have the power to affirm, modify, or set aside, in whole or in part, such decision. The court may modify or set aside such decision only if the court determines that such decision was arbitrary and capricious.

"(b) ADMINISTRATIVE REVIEW.—The Secretary shall ensure that recommended decisions of the Secretary with respect to a claim under this subtitle are subject to administrative review. The Secretary shall prescribe regulations for carrying out such review or shall apply to this subtitle the regulations applicable to recommended decisions under subtitle B.

**"SEC. 3678. PHYSICIANS SERVICES.**

"(a) IN GENERAL.—The Secretary may utilize the services of physicians for purposes of making determinations under this subtitle.

"(b) PHYSICIANS.—Any physicians whose services are utilized under subsection (a) of this section shall possess appropriate expertise and experience in the evaluation and determination of the extent of permanent physical impairments or in the evaluation and diagnosis of illnesses or deaths aggravated, contributed to, or caused by exposure to toxic substances.

"(c) ARRANGEMENT.—The Secretary may secure the services of physicians utilized under subsection (a) of this section through the appointment of physicians or by contract.

**"SEC. 3679. MEDICAL BENEFITS.**

"A covered DOE contractor employee shall be furnished medical benefits specified in section 3629 for the covered illness to the same extent, and under the same conditions and limitations, as an individual eligible for medical benefits under that section is furnished medical benefits under that section.

**"SEC. 3680. ATTORNEY FEES.**

"Section 3648 shall apply to a payment under this subtitle to the same extent that it applies to a payment under subtitle B.

**"SEC. 3681. ADMINISTRATIVE MATTERS.**

"(a) IN GENERAL.—The Secretary shall administer this subtitle.

"(b) CONTRACT AUTHORITY.—The Secretary may enter into contracts with appropriate persons and entities to administer this subtitle.

"(c) RECORDS.—(1)(A) The Secretary of Energy shall provide to the Secretary all records, files, and other data, whether paper, electronic, imaged, or otherwise, developed by the Secretary of Energy that are applicable to the administration of this subtitle, including records, files, and data on facility industrial hygiene, employment of individuals or groups, exposure and medical records, and claims applications.

"(B) In providing records, files, and other data under this paragraph, the Secretary of Energy shall preserve the current organization of such records, files, and other data, and shall provide such description and indexing of such records, files, and other data as the Secretary considers appropriate to facilitate their use by the Secretary.

"(2) The Secretary of Energy and the Secretary shall jointly undertake such actions as are appropriate to retrieve records applicable to the claims of Department of Energy contractor employees for contractor employee compensation under this subtitle, including employment records, records of exposure to beryllium, radiation, silica, or other toxic substances, and records regarding medical treatment.

"(d) INFORMATION.—At the request of the Secretary, the Secretary of Energy and any contractor who employed a Department of Energy contractor employee shall, within time periods specified by the Secretary, provide to the Secretary and to the employee information or documents in response to the request.

"(e) REGULATIONS.—The Secretary shall prescribe regulations necessary for the administration of this subtitle. The initial regulations shall be prescribed not later than 210 days after the date of the enactment of this subtitle. The Secretary may prescribe interim final regulations necessary to meet the deadlines specified in this subtitle.

"(f) TRANSITION PROVISIONS.—(1) The Secretary shall commence the administration of the provisions of this subtitle not later than 210 days after the date of the enactment of this subtitle.

"(2) Until the commencement of the administration of this subtitle, the Department of Energy Physicians Panels appointed pursuant to subtitle D shall continue to consider and issue determinations concerning any cases pending before such Panels immediately before the date of the enactment of this subtitle.

"(3) The Secretary shall take such actions as are appropriate to identify other activities under subtitle D that will continue until the commencement of the administration of subtitle E.

"(g) PREVIOUS APPLICATIONS.—Upon the commencement of the administration of this subtitle, any application previously filed with the Secretary of Energy pursuant to subtitle D shall be considered to have been filed with the Secretary as a claim for benefits pursuant to this subtitle.

**"SEC. 3682. COORDINATION OF BENEFITS WITH RESPECT TO STATE WORKERS COMPENSATION.**

"(a) IN GENERAL.—An individual who has been awarded compensation under this subtitle, and who has also received benefits from a State workers compensation system by reason of the same covered illness, shall receive compensation specified in this subtitle reduced by the amount of any workers compensation benefits, other than medical benefits and benefits for vocational rehabilitation, that the individual has received under the State workers compensation system by reason of the covered illness, after deducting the reasonable costs, as determined by the Secretary, of obtaining those benefits under the State workers compensation system.

"(b) WAIVER.—The Secretary may waive the provisions of subsection (a) if the Secretary determines that the administrative costs and burdens of implementing subsection (a) with respect to a particular case or class of cases justifies such a waiver.

"(c) INFORMATION.—Notwithstanding any other provision of law, each State workers compensation authority shall, upon request of the Secretary, provide to the Secretary on a quarterly basis information concerning workers compensation benefits received by any covered DOE contractor employee entitled to compensation or benefits under this subtitle, which shall include the name, Social Security number, and nature and amount of workers compensation benefits for each such employee for which the request was made.

**"SEC. 3683. MAXIMUM AGGREGATE COMPENSATION.**

"For each individual whose illness or death serves as the basis for compensation or benefits under this subtitle, the total amount of compensation (other than medical benefits) paid under this subtitle, to all persons, in the aggregate, on the basis of that illness or death shall not exceed $250,000.

**"SEC. 3684. FUNDING OF ADMINISTRATIVE COSTS.**

"There is authorized and hereby appropriated to the Secretary for fiscal year 2005 and thereafter such sums as may be necessary to carry out this subtitle.

**"SEC. 3685. PAYMENT OF COMPENSATION AND BENEFITS FROM COMPENSATION FUND.**

"The compensation and benefits provided under this title, when authorized or approved by the President, shall be paid from the compensation fund established under section 3612.

**"SEC. 3686. OFFICE OF OMBUDSMAN.**

"(a) ESTABLISHMENT.—There is established in the Department of Labor an office to be known as the 'Office of the Ombudsman' (in this section referred to as the 'Office').

"(b) HEAD.—The head of the Office shall be the Ombudsman. The individual serving as Ombudsman shall be either of the following:

"(1) An officer or employee of the Department of Labor designated by the Secretary for purposes of this section from among officers and employees of the Department who have experience and expertise necessary to carry out the duties of the Office specified in subsection (c).

"(2) An individual employed by the Secretary from the private sector from among individuals in the private sector who have experience and expertise necessary to carry out the duties of the Office specified in subsection (c).

"(c) DUTIES.—The duties of the Office shall be as follows:

"(1) To provide information on the benefits available under this subtitle and on the requirements and procedures applicable to the provision of such benefits.

"(2) To make recommendations to the Secretary regarding the location of centers (to be known as 'resource centers') for the acceptance and development of claims for benefits under this subtitle.

"(3) To carry out such other duties with respect to this subtitle as the Secretary shall specify for purposes of this section.

"(d) INDEPENDENT OFFICE.—The Secretary shall take appropriate actions to ensure the independence of the Office within the Department of Labor, including independence from other officers and employees of the Department engaged in activities relating to the administration of the provisions of this subtitle.

"(e) ANNUAL REPORT.—(1) Not later than February 15 each year, the Ombudsman shall submit to Congress a report on activities under this subtitle.

"(2) Each report under paragraph (1) shall set forth the following:

"(A) The number and types of complaints, grievances, and requests for assistance received by the Ombudsman under this subtitle during the preceding year.

"(B) An assessment of the most common difficulties encountered by claimants and potential claimants under this subtitle during the preceding year.

"(3) The first report under paragraph (1) shall be the report submitted in 2006.

"(f) OUTREACH.—The Secretary of Labor and the Secretary of Health and Human Services shall each undertake outreach to advise the public of the existence and duties of the Office.

"(g) SUNSET.—Effective on the date that is 3 years after the date of the enactment of this section, this section shall have no further force or effect.".

**SEC. 3162. CONFORMING AMENDMENTS.**

(a) OFFSET FOR CERTAIN PAYMENTS.—Section 3641 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385) is amended—

(1) by striking "subtitle B" and inserting "this title"; and

(2) by striking "on account of" and all that follows through the period at the end and inserting "on account of the exposure for which compensation is payable under this title.".

(b) SUBROGATION OF THE UNITED STATES.—Section 3642 of such Act (42 U.S.C. 7385a) is amended by striking "subtitle B" and inserting "this title".

(c) PAYMENT IN FULL SETTLEMENT OF CLAIMS.—Section 3643 of such Act (42 U.S.C. 7385b) is amended by striking "The acceptance" and inserting "Except as provided in subtitle E, the acceptance".

(d) EXCLUSIVITY OF REMEDY.—Section 3644 of such Act (42 U.S.C. 7385c(a)) is amended by adding at the end the following new subsection:

"(d) APPLICABILITY TO SUBTITLE E.—This section applies with respect to subtitle E to the covered medical condition or covered illness or death of a covered DOE contractor employee on the same basis as it applies with respect to subtitle B to the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death of a covered employee.".

(e) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Section 3646 of such Act (42 U.S.C. 7385e) is amended by striking "subtitle B" and inserting "this title".

(f) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—Section 3647(a) of such Act (42 U.S.C. 7385f(a)) is amended by striking "subtitle B" and inserting "this title".

(g) CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.—Section 3649 of such Act (42 U.S.C. 7385h) is amended by striking "subtitle B" both places such term appears and inserting "this title".

(h) FORFEITURE OF BENEFITS BY CONVICTED FELONS.—Section 3650 of such Act (42 U.S.C. 7385i) is amended by striking "subtitle B" each place such term appears and inserting "this title".

(i) REPEAL OF SUBTITLE D.—Subtitle D of 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); 42 U.S.C. 7385o) is repealed.

**SEC. 3163. TECHNICAL AMENDMENTS.**

(a) SUBPOENAS.—Subtitle B of such Act is amended by adding after section 3631 (42 U.S.C. 7384v) the following new section:

**"SEC. 3632. SUBPOENAS; OATHS; EXAMINATION OF WITNESSES.**

"The Secretary of Labor, with respect to any matter under this subtitle, may—

"(1) issue subpoenas for and compel the attendance of witnesses;

"(2) administer oaths;

"(3) examine witnesses; and

"(4) require the production of books, papers, documents, and other evidence.".

(b) SOCIAL SECURITY EARNINGS INFORMATION.—Subtitle C of such Act is amended by adding after section 3651 (42 U.S.C. 7385j) the following new section:

**"SEC. 3652. SOCIAL SECURITY EARNINGS INFORMATION.**

"Notwithstanding the provision of section 552a of title 5, United States Code, or any other provision of Federal or State law, the Social Security Administration shall make available to the Secretary of Labor, upon written request, the Social Security earnings information of living or deceased employees who may have sustained an illness that is the subject of a claim under this title, which the Secretary of Labor may require to carry out the provisions of this title.".

(c) RECOVERY OF OVERPAYMENT.—Subtitle C of such Act is further amended by adding after section 3652 (as added by subsection (b)) the following new section:

**"SEC. 3653. RECOVERY AND WAIVER OF OVERPAYMENTS.**

"(a) IN GENERAL.—When an overpayment has been made to an individual under this title because of an error of fact or law, recovery shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the recovery is completed, recovery shall be made by decreasing later benefits payable under this title with respect to the individual's death.

"(b) WAIVER.—Recovery by the United States under this section may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience.

"(c) LIABILITY.—A certifying or disbursing official is not liable for an amount certified or paid by him when recovery of the amount is waived under subsection (b) of this section, or when recovery under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.".

**SEC. 3164. TRANSFER OF FUNDS FOR FISCAL YEAR 2005.**

Of the funds appropriated to the Secretary of Energy for fiscal year 2005 for the Energy Employees Occupational Illness Compensation Program, the Secretary of Energy shall transfer to the Secretary of Labor the amount of funds that the Secretary of Energy, in consultation with the Secretary of Labor, determine will be necessary for fiscal year 2005 to administer the provisions of subtitle E of the Energy Employees Occupational Illness Compensation Program Act of 2000, as added by this Act.

**SEC. 3165. USE OF ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND FOR CERTAIN PAYMENTS TO COVERED URANIUM EMPLOYEES.**

(a) IN GENERAL.—Section 3630 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384u) is amended in subsection (d) by inserting after "The compensation provided under this section" the following: "and the compensation provided under section 5 of the Radiation Exposure Compensation Act".

(b) CONFORMING AMENDMENT.—Section 6(c)(1) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by

inserting after "Fund" the following: "(or, in the case of a payment under section 5, from the Energy Employees Occupational Illness Compensation Fund, pursuant to section 3630(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000)".

**SEC. 3166. IMPROVEMENTS TO SUBTITLE B OF ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000.**

(a) ADVISORY BOARD.—Section 3624 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384o) is amended by adding at the end the following new subsections:

"(e) SECURITY CLEARANCES.—(1) The Secretary of Energy shall ensure that the members and staff of the Board, and the contractors performing work in support of the Board, are afforded the opportunity to apply for a security clearance for any matter for which such a clearance is appropriate. The Secretary should, not later than 180 days after receiving a completed application, make a determination whether or not the individual concerned is eligible for the clearance.

"(2) For fiscal year 2007 and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.

"(f) INFORMATION.—The Secretary of Energy shall, in accordance with law, provide to the Board and the contractors of the Board access to any information that the Board considers relevant to carry out its responsibilities under this title, including information such as Restricted Data (as defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y))) and information covered by the Privacy Act.".

(b) DEADLINES FOR SPECIAL EXPOSURE COHORT ACTIONS.—(1) Section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c) DEADLINES.—(1) Not later than 180 days after the date on which the President receives a petition for designation as members of the Special Exposure Cohort, the Director of the National Institute for Occupational Safety and Health shall submit to the Advisory Board on Radiation and Worker Health a recommendation on that petition, including all supporting documentation.

"(2)(A) Upon receipt by the President of a recommendation of the Advisory Board on Radiation and Worker Health that the President should determine in the affirmative that paragraphs (1) and (2) of subsection (b) apply to a class, the President shall have a period of 30 days in which to determine whether such paragraphs apply to the class and to submit that determination (whether affirmative or negative) to Congress.

"(B) If the determination submitted by the President under subparagraph (A) is in the affirmative, the President shall also submit a report meeting the requirements of section 3621(14)(C)(ii).

"(C) If the President does not submit a determination required by subparagraph (A) within the period required by subparagraph (A), then upon the day following the expiration of that period, it shall be deemed for purposes of section 3621(14)(C)(ii) that the President submitted the report under that provision on that day.".

(2) Section 3621(14)(C)(ii) of that Act (42 U.S.C. 7384l(14)(C)(ii)) is amended by striking "180 days" and inserting "30 days".

(c) SITE PROFILES.—Subtitle B of that Act is amended by adding after section 3632 (as added by section 3163(a)) the following new section:

**"SEC. 3633. COMPLETION OF SITE PROFILES.**

"(a) IN GENERAL.—To the extent that the Secretary of Labor determines it useful and practicable, the Secretary of Labor shall direct the Director of the National Institute for Occupational Safety and Health to prepare site profiles for a Department of Energy facility based on the records, files, and other data provided by the Secretary of Energy and such other information as is available, including information available from the former worker medical screening programs of the Department of Energy.

"(b) INFORMATION.—The Secretary of Energy shall furnish to the Secretary of Labor any information that the Secretary of Labor finds necessary or useful for the production of such site profiles, including records from the Department of Energy former worker medical screening program.

"(c) DEFINITION.—In this section, the term 'site profile' means an exposure assessment of a facility that identifies the toxic substances or processes that were commonly used in each building or process of the facility, and the time frame during which the potential for exposure to toxic substances existed.

"(d) TIME FRAMES.—The Secretary of Health and Human Services shall establish time frames for completing site profiles for those Department of Energy facilities for which a site profile has not been completed. Not later than March 1, 2005, the Secretary of Health and Human Services shall submit to Congress a report setting forth those time frames.".

**SEC. 3167. EMERGENCY SPECIAL EXPOSURE COHORT MEETING AND REPORT.**

(a) MEETING OF ADVISORY BOARD.—(1) For purposes of carrying out section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q), the President shall require the Advisory Board on Radiation and Worker Health to convene a meeting of the Board at which the Board considers each petition for designation as members of the Special Exposure Cohort—

(A) that was filed not later than October 1, 2004; and

(B) the evaluation of which (by the Director of the National Institute of Occupational Safety and Health) was completed more than 10 days before a previously scheduled meeting of the Board.

(2) Effective March 1, 2005, this subsection shall have no further force or effect.

(b) REPORT TO CONGRESS.—Not later than March 15, 2005, the President shall submit to Congress a report on the status

of the petitions referred to in subsection (a). The report shall include, for each petition, the estimated time to complete the consideration of that petition and any anticipated actions or circumstances that could preclude the Board from acting upon that petition before the end of fiscal year 2005.

**SEC. 3168. COVERAGE OF INDIVIDUALS EMPLOYED AT ATOMIC WEAPONS EMPLOYER FACILITIES DURING PERIODS OF RESIDUAL CONTAMINATION.**

(a) COVERAGE.—Paragraph (3) of section 3621 of 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); 42 U.S.C. 7384l) is amended to read as follows:

"(3) The term 'atomic weapons employee' means any of the following:

"(A) An individual employed by an atomic weapons employer during a period when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

"(B) An individual employed—

"(i) at a facility with respect to which the National Institute for Occupational Safety and Health, in its report dated October 2003 and titled 'Report on Residual Radioactive and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendor Facilities', or any update to that report, found that there is a potential for significant residual contamination outside of the period in which weapons-related production occurred;

"(ii) by an atomic weapons employer or subsequent owner or operators of a facility described in clause (i); and

"(iii) during a period, as specified in such report or any update to such report, of potential for significant residual radioactive contamination at such facility.".

(b) RADIATION DOSE FOR CERTAIN ATOMIC WEAPONS EMPLOYEES.—Section 3623 of that Act (42 U.S.C. 7384n) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) In the case of an atomic weapons employee described in section 3621(3)(B), the following doses of radiation shall be treated, for purposes of paragraph (3)(A) of this subsection, as part of the radiation dose received by the employee at such facility:

"(A) Any dose of ionizing radiation received by that employee from facilities, materials, devices, or byproducts used or generated in the research, development, production, dismantlement, transportation, or testing of nuclear weapons, or from any activities to research, produce, process, store, remediate, or dispose of radioactive materials by or on behalf of the Department of Energy (except for activities covered by Executive Order No. 12344, dated February 1, 1982 (42 U.S.C. 7158 note) pertaining to the Naval Nuclear Propulsion Program).

"(B) Any dose of ionizing radiation received by that employee from a source not covered by subparagraph (A) that

is not distinguishable through reliable documentation from a dose covered by subparagraph (A).".

**SEC. 3169. UPDATE OF REPORT ON RESIDUAL CONTAMINATION OF FACILITIES.**

(a) UPDATE OF REPORT.—Not later than December 31, 2006, the Director of the National Institute for Occupational Safety and Health shall submit to Congress an update to the report required by section 3151(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 42 U.S.C. 7384 note).

(b) ELEMENTS.—The update shall—

(1) for each facility for which such report found that insufficient information was available to determine whether significant residual contamination was present, determine whether significant residual contamination was present;

(2) for each facility for which such report found that significant residual contamination remained present as of the date of the report, determine the date on which such contamination ceased to be present;

(3) for each facility for which such report found that significant residual contamination was present but for which the Director has been unable to determine the extent to which such contamination is attributable to atomic weapons-related activities, identify the specific dates of coverage attributable to such activities and, in so identifying, presume that such contamination is attributable to such activities until there is evidence of decontamination of residual contamination identified with atomic weapons-related activities;

(4) for each facility for which such report found significant residual contamination, determine whether it is at least as likely as not that such contamination could have caused an employee who was employed at such facility only during the residual contamination period to contract a cancer or beryllium illness compensable under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000; and

(5) if new information that pertains to the report has been made available to the Director since that report was submitted, identify and describe such information.

(c) PUBLICATION.—The Director shall ensure that the report referred to in subsection (a) is published in the Federal Register not later than 15 days after being released.

**SEC. 3170. SENSE OF CONGRESS ON RESOURCE CENTER FOR ENERGY EMPLOYEES UNDER ENERGY EMPLOYEE OCCUPATIONAL ILLNESS COMPENSATION PROGRAM IN WESTERN NEW YORK AND WESTERN PENNSYLVANIA REGION.**

(a) FINDINGS.—Congress makes the following findings:

(1) New York has 36 current or former Department of Energy facilities involved in nuclear weapons production-related activities statewide, mostly atomic weapons employer facilities, and 14 such facilities in western New York. Despite having one of the greatest concentrations of such facilities in the United States, western New York, and abutting areas of Pennsylvania, continue to be severely underserved by the Energy Employees Occupational Illness Compensation Program under 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); 42 U.S.C. 7384 et seq.).

(2) The establishment of a permanent resource center in western New York would represent a substantial step toward improving services under the Energy Employees Occupational Illness Compensation Program for energy employees in this region.

(3) The number of claims submitted to the Department under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 from the western New York region, including western Pennsylvania, exceeds the number of such claims filed at resource centers in Hanford, Washington, Portsmouth, Ohio, Los Alamos, New Mexico, the Nevada Test Site, Nevada, the Rocky Flats Environmental Technology Site, Colorado, the Idaho National Engineering Laboratory, Idaho, and the Amchitka Test Site, Alaska.

(4) Energy employees in the western New York region, including western Pennsylvania, deserve assistance under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 commensurate with the assistance provided energy employees at other locations in the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Labor should—

(1) review the availability of assistance under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 for energy employees in the western New York region, including western Pennsylvania; and

(2) recommend a location in that region for a resource center to provide such assistance to such energy employees.

# TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

**SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2005, $21,268,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

# TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.
Sec. 3302. Revision of earlier authority to dispose of certain materials in National Defense Stockpile.
Sec. 3303. Disposal of ferromanganese.
Sec. 3304. Prohibition on storage of mercury at certain facilities.

**SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2005, the National Defense Stockpile Manager may obligate up to

$59,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 3302. REVISION OF EARLIER AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.**

Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

"(4) $785,000,000 by the end of fiscal year 2005; and

"(5) $870,000,000 by the end of fiscal year 2009.".

**SEC. 3303. DISPOSAL OF FERROMANGANESE.**

(a) DISPOSAL AUTHORIZED.—The Secretary of Defense may dispose of up to 50,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2005.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.—(1) If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2005, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(2) If the Secretary completes the disposal of the total quantity of additional ferromanganese authorized for disposal by paragraph (1) before September 30, 2005, the Secretary may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) CERTIFICATION.—The Secretary of Defense may dispose of ferromanganese under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal under the applicable paragraph, that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) DELEGATION OF RESPONSIBILITY.—The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, 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).

**SEC. 3304. PROHIBITION ON STORAGE OF MERCURY AT CERTAIN FACILITIES.**

(a) PROHIBITION.—During fiscal year 2005, the Secretary of Defense may not store mercury from the National Defense Stockpile at any facility that is not owned or leased by the United States.

(b) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, 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).

# TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

**SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of Energy $20,000,000 for fiscal year 2005 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 Maritime Administration.
Sec. 3502. Extension of authority to provide war risk insurance for merchant marine vessels.
Sec. 3503. Modification of priority afforded applications for national defense tank vessel construction assistance.

**SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR MARITIME ADMINISTRATION.**

There are authorized to be appropriated to the Secretary of Transportation for the Maritime Administration for fiscal year 2005 (in lieu of amounts authorized for the same purposes by section 3511 of the National Defense Authorization Act for Fiscal Year 2004)—

(1) for expenses necessary for operations and training activities, $109,300,000;

(2) for administrative expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), $4,764,000; and

(3) for ship disposal, $35,000,000, of which $2,000,000 shall be for decommissioning, removal, and disposal of the nuclear

reactor and hazardous materials on board the vessel SAVANNAH.

**SEC. 3502. EXTENSION OF AUTHORITY TO PROVIDE WAR RISK INSURANCE FOR MERCHANT MARINE VESSELS.**

(a) EXTENSION.—Section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1294), is amended by striking "June 30, 2005" and inserting "December 31, 2010".

(b) INVESTMENT OF ASSETS IN INSURANCE FUND.—Section 1208(a) of such Act (46 U.S.C. App. 1288), is amended by striking the third sentence and inserting the following: "The Secretary of Transportation may request the Secretary of the Treasury to invest such portion of the Fund as is not, in the judgment of the Secretary of Transportation, required to meet the current needs of the fund. Such investments shall be made by the Secretary of the Treasury in public debt securities of the United States, with maturities suitable to the needs of the fund, and bearing interest rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.".

**SEC. 3503. MODIFICATION OF PRIORITY AFFORDED APPLICATIONS FOR NATIONAL DEFENSE TANK VESSEL CONSTRUCTION ASSISTANCE.**

Section 3542(d)(2) of the Maritime Security Act of 2003 (title XXXV of Public Law 108–136; 117 Stat. 1821; 46 U.S.C. 53101 note) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to any proposal for financial assistance to be provided from amounts appropriated for a fiscal year after fiscal year 2005, acceptance of the vessel to be constructed with the assistance for participation in the Shipboard Technology Evaluation Program as outlined in Navigation and Vessel Inspection Circular 01–04, issued by the Commandant of the United States Coast Guard on January 2, 2004.".

# TITLE XXXVI—ASSISTANCE TO FIREFIGHTERS

Sec. 3601. Short title.
Sec. 3602. Amendments to Federal Fire Prevention and Control Act of 1974.
Sec. 3603. Report on assistance to firefighters.

**SEC. 3601. SHORT TITLE.**

This title may be cited as the "Assistance to Firefighters Grant Program Reauthorization Act of 2004".

**SEC. 3602. AMENDMENTS TO FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974.**

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "throughout the Nation" after "personnel"; and

(B) by striking "and" at the end;

(2) in subsection (b)(1)(B)—

(A) by inserting "and firefighter safety research and development" after "fire prevention"; and

(B) by striking the period and inserting "; and";

(3) by adding at the end of subsection (b)(1) the following new subparagraph:

"(C) provide assistance for nonaffiliated EMS organizations for the purpose of paragraph (3)(F).";

(4) in subsection (b)(3)(F), by inserting "and nonaffiliated EMS organizations" after "fire departments";

(5) in subsection (b)(4)—

(A) by inserting "AND FIREFIGHTER SAFETY RESEARCH AND DEVELOPMENT" after "PREVENTION" in the paragraph heading;

(B) in subparagraph (A)(ii)—

(i) by inserting "that are not fire departments and" after "community organizations";

(ii) by inserting "and firefighter research and development programs," after "fire safety programs and activities,"; and

(iii) by inserting "and research to improve firefighter health and life safety" after "fire prevention programs";

(C) in subparagraph (B), by striking "to children from fire" and inserting "to high risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety"; and

(D) by adding at the end the following new subparagraph:

"(C) GRANT LIMITATION.—A grant under this paragraph shall not be greater than $1,000,000 for a fiscal year.";

(6) in subsection (b)(5)(B)—

(A) by redesignating clause (iv) as clause (v); and

(B) by inserting after clause (iii) the following new clause:

"(iv) OTHER FEDERAL SUPPORT.—A list of other sources of Federal funding received by the applicant. The Director, in coordination with the Secretary of Homeland Security, shall use such list to prevent unnecessary duplication of grant funds.".

(7) in subsection (b)(6), by striking subparagraphs (A) and (B) and inserting the following:

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Director may provide assistance under this subsection only if the applicant for such assistance agrees to match 20 percent of such assistance for any fiscal year with an equal amount of non-Federal funds.

"(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel—

"(i) serve jurisdictions of 50,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 10 percent; and

"(ii) serve jurisdictions of 20,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 5 percent.

"(C) FIRE PREVENTION AND FIREFIGHTER SAFETY GRANTS.—There shall be no matching requirement for a grant described in paragraph (4)(A)(ii).";

(8) in subsection (b)(10)—

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

"(A) RECIPIENT LIMITATIONS.—A grant recipient under subsection (b)(1)(A)—

"(i) that serves a jurisdiction with 500,000 people or less may not receive grants in excess of $1,000,000 for any fiscal year;

"(ii) that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people may not receive grants in excess of $1,750,000 for any fiscal year; and

"(iii) that serves a jurisdiction with more than 1,000,000 people may not receive grants in excess of $2,750,000 for any fiscal year.

The Director may award grants in excess of the limitations provided in clause (i) and (ii) if the Director determines that extraordinary need for assistance by a jurisdiction warrants a waiver.";

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) DISTRIBUTION.—Notwithstanding subparagraph (A), no single recipient may receive more than the lesser of $2,750,000 or one half of one percent of the funds appropriated under this section for a single fiscal year."; and

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

"(D) REQUIREMENTS FOR GRANTS FOR EMERGENCY MEDICAL SERVICES.—Subject to the restrictions in subparagraph (E), not less than 3.5 percent of the funds appropriated under this section for a fiscal year shall be awarded for purposes described in paragraph (3)(F).

"(E) NONAFFILIATED EMS LIMITATION.—Not more than 2 percent of the funds appropriated to provide grants under this section for a fiscal year shall be awarded to nonaffiliated EMS organizations.

"(F) APPLICATION OF SELECTION CRITERIA TO GRANT APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.—In reviewing applications submitted by nonaffiliated EMS organizations, the Director shall consider the extent to which other sources of Federal funding are available to provide assistance requested in such grant applications.";

(9) in subsection (b), by adding at the end the following new paragraphs:

"(13) ANNUAL MEETING.—The Director shall convene an annual meeting of individuals who are members of national fire service organizations and are recognized for expertise in firefighting or emergency medical services provided by fire services, and who are not employees of the Federal Government, for the purpose of recommending criteria for awarding grants under this section for the next fiscal year and recommending any necessary administrative changes to the grant program.

"(14) GUIDELINES.—(A) Each year, prior to making any grants under this section, the Director shall publish in the Federal Register—

"(i) guidelines that describe the process for applying for grants and the criteria for awarding grants; and

"(ii) an explanation of any differences between the guidelines and the recommendations made pursuant to paragraph (13).

"(B) The criteria for awarding grants under subsection (b)(1)(A) shall include the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

"(15) PEER REVIEW.—The Director shall, after consultation with national fire service organizations, appoint fire service personnel to conduct peer review of applications received under paragraph (5). In making grants under this section, the Director shall consider the results of such peer review evaluations.

"(16) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities under paragraphs (13) and (15).

"(17) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, rule, regulation, or guidance, for purposes of receiving assistance under this section, equipment costs shall include, but not be limited to, all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.";

(10) by amending subsection (d) to read as follows:

"(d) DEFINITIONS.—In this section—

"(1) the term 'Director' means the Director, acting through the Administrator;

"(2) the term 'nonaffiliated EMS organization' means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Director finds that emergency medical services are adequately provided by a fire department; and

"(3) the term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico."; and

(11) in subsection (e)(1), by striking the first sentence and inserting "There are authorized to be appropriated for the purposes of this section $900,000,000 for fiscal year 2005, $950,000,000 for fiscal year 2006, and $1,000,000,000 for each of the fiscal years 2007 through 2009.".

**SEC. 3603. REPORT ON ASSISTANCE TO FIREFIGHTERS.**

(a) STUDY AND REPORT ON ASSISTANCE TO FIREFIGHTERS.—

(1) STUDY.—The Administrator of the United States Fire Administration, in conjunction with the National Fire Protection Association, shall conduct a study to—

(A) define the current roles and activities associated with the fire services on a national, State, regional, and local level;

(B) identify the equipment, staffing, and training required to fulfill the roles and activities defined under subparagraph (A);

(C) conduct an assessment to identify gaps between what fire departments currently possess and what they require to meet the equipment, staffing, and training needs identified under subparagraph (B) on a national and State-by-State basis; and

(D) measure the impact of the Assistance to Firefighters Grant program under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) in meeting the needs of the fire services identified in the report submitted to Congress under section 1701(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and filling the gaps identified under subparagraph (C).

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report on the findings of the study described in paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Fire Administration $300,000 for fiscal year 2005 to carry out the study required by subsection (a).

*Speaker of the House of Representatives.*

*Vice President of the United States and President of the Senate.*