104TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
104–131

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

R E P O R T

OF THE

COMMITTEE ON NATIONAL SECURITY HOUSE OF REPRESENTATIVES

ON

H.R. 1530

together with

ADDITIONAL, SUPPLEMENTAL, AND DISSENTING VIEWS

[Including cost estimate of the Congressional Budget Office]

JUNE 1, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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104TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
104–131

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

JUNE 1, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SPENCE, from the Committee on Armed Services, submitted the following

REPORT

together with

ADDITIONAL, SUPPLEMENTAL, AND DISSENTING VIEWS

[To accompany H.R. 1530]

[Including cost estimate of the Congressional Budget Office]

EXPLANATION OF THE COMMITTEE AMENDMENT

The committee adopted an amendment in the nature of a substitute during the consideration of H.R. 1530. The remainder of the report discusses the bill, as amended.

PURPOSE

The bill would—

(1) Authorize appropriations for fiscal years 1996 through 2000 for procurement and for research, development, test and evaluation (RDT&E);

(2) Authorize appropriations for fiscal year 1996 for operation and maintenance (O&M) and working capital funds;

(3) Authorize for fiscal year 1996: (a) the personnel strength for each active duty component of the military departments; (b) the personnel strength for the Selected Reserve for each reserve component of the armed forces; (c) the military training student loads for each of the active and reserve components of the military departments;

(4) Modify various elements of compensation for military personnel and impose certain requirements and limitations on personnel actions in the defense establishment;

(5) Authorize appropriations for fiscal year 1996 for military construction and family housing;

(6) Authorize appropriations for fiscal year 1996 for the Department of Energy National Security Programs;

(7) Modify provisions related to the National Defense Stockpile; and

(8) Authorize appropriations for fiscal year 1996 for the operation of the Panama Canal Commission.

RELATIONSHIP OF AUTHORIZATION AND APPROPRIATIONS

Importantly, the bill does not generally provide budget authority. The bill authorizes appropriations. Subsequent appropriation Acts provide budget authority. The bill addresses the following categories in the Department of Defense budget: procurement; research, development, test and evaluation; operation and maintenance; working capital funds; military personnel; and military construction and family housing. The bill also addresses Department of Energy National Security Programs.

Active duty and reserve personnel strengths authorized in this bill and legislation affecting compensation for military personnel determine the remaining appropriation requirements of the Department of Defense; however, this bill does not provide authorization of specific dollar amounts for personnel.

SUMMARY OF AUTHORIZATION IN THE BILL

The President requested budget authority of $257.6 billion for the National Defense budget function for fiscal year 1996. Of this amount, the President requested $245.8 billion for the Department of Defense (including $10.7 billion for military construction and family housing) and $11.2 billion for Department of Energy National Security Programs and the Defense Nuclear Facilities Safety Board.

The committee recommends an overall level of $267.3 billion in budget authority. This amount is an increase of approximately $9.7 billion from the amount requested for the National Defense function by the President. Overall, the committee's recommendation is largely consistent with the amounts established in the House-passed Budget Resolution for fiscal year 1996.

SUMMARY TABLE OF AUTHORIZATIONS

The following table provides a summary of the amounts requested and that would be authorized for appropriation in the bill and (in the column labeled "Budget Authority Implication of Committee Recommendation") the committee's estimate of how the committee's recommendations relate to the budget totals for the National Defense function in the Budget Resolution. For purposes of estimating the budget authority implications of committee action, the table reflects the numbers contained in the President's budget for proposals not in the committee's legislative jurisdiction.

Offset Folios 26 to 28 Insert here

RATIONALE FOR THE COMMITTEE BILL

The committee's action on the National Defense Authorization Act for Fiscal Year 1996 acknowledges the evolving nature of the post-Cold War strategic order: worldwide power balances have shifted, and geopolitical structures that have held regional hatreds and rivalries in check have disintegrated. While the United States no longer faces an immediate global challenge from a competing superpower, it now faces a multiplicity of challenges to its ability to protect and promote its national interests around the globe. The collapse of the Soviet Union has by no means meant the end of discord and conflict among nation states.

This bill establishes the course for what the committee believes is the beginning of an important revitalization of America's armed forces to better meet these challenges. Maintaining American strength and presence in the chaos and confusion of the post-Cold War world will not be possible without a properly sized, trained and equipped military. As a nation with global interests, the United States must be able to respond decisively across the entire spectrum of military conflict—from unconventional to increasingly high-technology conventional and ultimately to strategic nuclear warfare. As a nation, we can ill afford to let our capabilities in any of these areas erode. However, defense budgets and military force structure have dramatically declined over the last ten years. This bill decisively halts this decade-long slide, establishing a floor from which to stabilize U.S. military capabilities as well as reinvigorate long-term defense investment.

Clearly, however, freezing the defense budget after a ten-year decline will not fully provide the necessary resources to support the Clinton administration's expansive, albeit ambiguous national security strategy. In a clear shift from America's Cold War policy of containment, the administration has embarked upon an ambitious policy of "engagement" and "enlargement." While these are principles, they are certainly not policies, with the predictable result that U.S. military power is increasingly dissipated upon missions of ambiguous purpose and of mere peripheral relation to vital national interests.

Moreover, the Administration has chosen to regard these missions, and the expanding roster of so-called "peace operations" they mandate, as an assumed subset of the major regional contingencies (MRC) that form the fundamental building block for our national military strategy and planning. However, it is increasingly clear that the Administration remains unwilling to devote the resources necessary not only to support its own two-MRC strategy, but also the additional resources necessary to carry out extensive operations other than war.

Consequently, a dangerous inconsistency has arisen between America's announced strategic intentions and the reality of maintaining the military forces required to act decisively on those intentions. Because the potential threats to our national interests continue to multiply, we can no longer rely exclusively upon nuclear deterrence to accomplish our larger strategic objectives, as done during the Cold War. Under current conditions, the growing gap

between declared strategy and actual capability will have swifter and surer consequences across a wide range of regional crises.

This strategy-forces-resources mismatch has also had profound consequences for the readiness of U.S. military forces. The shortage of funds, coupled with the higher operating tempos required by multiple peace operations other than war, has resulted in deteriorating readiness for front-line, active-duty units. The Administration's attempt to address this near-term problem within the context of a declining budget has resulted in the virtual elimination of whatever modest planning previously existed to prepare for future challenges to U.S. national security interests. Modernization, by most accounts the key to long-term readiness, has been over-mortgaged by the Administration in a desperate attempt to bolster near-term readiness requirements.

In response, the committee's bill represents an attempt to reorder spending priorities to better address both near- and long-term readiness, modernization and other core defense needs. The shifting strategic landscape demands not merely rapid response to current threats, but prudent planning today for tomorrow's challenges. Unless preparations to address both immediate and future challenges are properly balanced within the context of strategic decision-making, the United States will find itself unable to effectively respond to emerging global competitors or new military capabilities in the hands of regional powers.

Shortfalls and shortcomings in the Administration's budget, estimated in the hundreds, not tens of billions, make revitalizing and reshaping U.S. military capabilities an urgent task. Clinging to past successes—even those as recent as the Persian Gulf War—is no substitute for keeping an eye on the future by making difficult choices in the present.

An uncertain but violent world also places an increasingly important premium on a more agile Department of Defense. Inefficient and outdated practices will detract directly from our military's ability to meet its mission in a resource-constrained environment. The Pentagon bureaucracy will have to be as responsive as the forces it supports.

This new measure of agility must reflect more than the result of aggressive acquisition and bureaucratic reform. It must also manifest itself in a Department more singularly focused on issues of national defense—non-defense initiatives, in many cases worthwhile cases, will have to play a lesser role in the budgets of a leaner Department of Defense. While creating and encouraging more efficient defense practices, the Department must return to basics: it is the only way the American taxpayer and, more importantly, those in uniform, will get the most defense out of every defense dollar.

ADDRESSING SHORTFALLS

The thrust of the committee's actions in adjusting the President's fiscal year 1996 defense request was aimed at addressing near- and long-term shortfalls in three of the critical components that make up military readiness; quality of life, core readiness and modernization. In addition, the bill includes a host of structure and process reforms intended to produce a more efficient, and more effective Department of Defense. As an intended consequence, such reforms

will also generate savings that are essential to a politically and financially sustainable approach to maintaining a military capability that remains second-to-none.

QUALITY OF LIFE

The committee remains concerned that the quality of military life continues to erode. As dollars decline, critical services are being cut back. As deployments—and family separations—lengthen and increase in cost, spending for construction and maintenance of family housing, troop barracks and other essential infrastructure is being deferred. The committee has recommended a range of initiatives to begin stabilizing and hopefully restoring the quality of life owed those who serve in the nation's armed forces.

First, the committee has approved the administration's request for a pay raise as required by law. The committee welcomes the Administration's belated recognition of the importance of a pay raise after two years during which the President's budget proposed to freeze or substantially reduce military pay. To more fully address deficiencies in troop and family housing, the committee funded a series of expanded and accelerated housing improvements to address shortfalls not currently budgeted by the Administration. The committee also recommended a series of steps in the areas of basic allowances for quarters and the variable housing allowance to ease the severe financial strain on many of our military personnel and their families.

Prompted by indications that the Administration was considering further reductions in personnel below the already low Bottom Up Review levels, the bill would also establish in law personnel endstrength "floors" for each service. The committee's action is based on the need to ensure, in the administration's own words, the minimum forces necessary to implement the national strategy. In addition, the committee has also recommended additional funds to increase endstrengths above those requested by the Administration. The committee believes that a small but targeted endstrength increase will help to lower personnel tempos in certain high demand units that are disproportionally bearing the brunt of the Administration's deployment of military forces around the world.

Other recommended initiatives range from the mundane—assuring that Navy enlisted personnel assigned to surface ships are provided with adequate storage space ashore—to those which are the pillars of military quality of life programs—ensuring the long-term viability of the commissary and exchange system and morale, recreation and welfare benefits. Each is intended to calm the growing turbulence of service life during an extended downsizing—a turbulence that has been exacerbated by the Administration's heavy reliance on the military for operations other than war.

CORE READINESS

The increased pace of contingency operations is overextending a shrinking U.S. military and consequently, the services are being asked to do more with less. The increased use of this smaller force has created short and long-term readiness problems. Planned training events have been deferred or canceled outright, spare parts

have not been bought and necessary maintenance on both equipment and infrastructure has been delayed.

The committee recognizes that readiness is a complex issue, consisting not only of current requirements but of future needs, and thus has taken a comprehensive approach to addressing as many of these shortfalls as possible. This bill mandates that the Department reconsider its readiness reporting procedures to better capture unit readiness over time. The committee was concerned to learn late last year, just weeks after having been assured by senior Department officials that force readiness was as high as it had ever been, that all services were suffering through severe readiness shortcomings. The committee believes the traditional system for measuring readiness is inadequate, representing only a ''snapshot'' and providing ambiguous predictive value of future force readiness. The committee has concluded that a comprehensive readiness system based on relevant and reliable indicators, measuring not only current readiness but providing warning of future problems, is required.

Although the Administration responded to last fall's reports of declining readiness by increasing defense spending slightly over the five-year plan, their welcome, albeit belated, recognition of the problem falls far short of addressing a problem of this magnitude. Accordingly, the committee has recommended additional spending in core readiness accounts such as depot maintenance in order to bring backlogs down and get equipment back into the field, real property maintenance to begin addressing what is likely to be a thirty to fifty year problem of halting the deterioration of base support facilities, mobility enhancements to allow for more timely deployment of forces, and reserve component readiness.

Finally, the committee has taken a two-track approach to addressing the problems caused by the Administration's use of budgeted readiness funds to pay for the costs of unbudgeted contingency operations. In the case of unbudgeted and unplanned operations, the committee bill would provide an interim financing authority that protects core readiness accounts in the early stages of such operations while the Administration secures supplemental funding. In the case of unbudgeted but planned (i.e., ongoing) operations, the committee bill would require that the Administration seek funds in advance of such operations that are expected to continue into the next fiscal year. Should the Administration ignore this requirement and Congress does not unilaterally provide supplemental funding, funds for the operation in question would be cut off.

MODERNIZATION

The committee remains deeply concerned with the Department's lack of a viable long-range modernization program. Moreover, the committee is alarmed that the Department continues to exacerbate this problem by canceling or deferring modernization programs in order to address near-term readiness shortfalls. For example, the fiscal year 1996 procurement budget is approximately $9 billion less than was proposed for fiscal year 1996 by last year's budget request. The drastic cuts in just one year—the fiscal year 1996 procurement request marks a 15 percent decline over current fiscal

year spending—in the context of a decade of decline has resulted in a budget request representing the lowest defense procurement budget in 45 years.

The fiscal year 1996 procurement budget request does not provide for the acquisition of any new bombers, scout or attack helicopters, tanks or fighting vehicles, Air Force fighter aircraft or small arms. In fact, many programs cited by the Department as central to the viability of the Bottom Up Review strategy just 18 months ago have been deferred, canceled or scaled-back to a development-only status. Even the Secretary of Defense has publicly admitted that modernization is woefully lacking in the Department's long-range budgeting and planning priorities.

Consequently, the committee has undertaken a number of initiatives to stabilize the modernization accounts and key elements of the defense industrial base. These include the procurement of F–16 and F–15E attrition reserve aircraft, additional precision guided munitions, small arms, ammunition, tactical wheeled vehicles, scout helicopters, sealift ships, a third DDG–51 destroyer and a LPD amphibious transport dock ship for the Marine Corps. Looking ahead to fiscal year 1997, the committee also provided long-lead funding for additional B–2 bombers and UH–60 Blackhawk helicopters.

The status of the research and development budget—the "seed corn" essential to ensuring the U.S. military's technological edge twenty or thirty years from now—is only marginally better. The fiscal year 1996 budget request marked a reduction of $1.7 billion from the current fiscal year spending levels. Moreover, as the Administration has reduced overall research and development spending, it has also increasingly relied upon these smaller budgets to fund a range of non-defense initiatives such as the Technology Reinvestment Program. This trend of declining top-line allocations and expanding non-defense spending has had the effect of "cannibalizing" the Department's research and development budgets from within.

The committee's research and development recommendations include an attempt to revitalize the Army's moribund modernization program, a renewed emphasis on the Navy's littoral warfare programs in anti-submarine warfare, mine countermeasures and naval surface fire support, as well as a significant boost to the Air Force's space and reusable launch efforts. However, the centerpiece of the committee's efforts to refocus defense research is found in its efforts to reinvigorate the ballistic missile defense program. As rogue nations determinedly seek to acquire weapons of mass destruction and the technology to deliver them over great distances, the United States can ill-afford not to pursue a more robust effort to develop and deploy effective theater and national missile defenses.

The nation must not forget how a crude, conventionally-armed Scud missile accounted for the greatest single loss of American lives during the Gulf War. Contrary to those who criticize attempts to defend U.S. troops or the American people from these weapons of terror, a massive SDI-like program to deploy exotic technologies is not envisioned. Yet it would be unconscionable in this emerging world of proliferating technology not to protect our troops abroad as well as Americans at home from ballistic missile attack—wheth-

er deliberate or accidental. Theater and national missile defense must once again become a national priority. To this end, the committee has accelerated funding for both theater and national missile defense programs.

REFORMING THE PENTAGON

Although military and civilian force structure has been downsized in recent years, the same is not true for the defense bureaucracy—involving either infrastructure and overhead reductions or improvements in inefficient and often obsolete business practices. Therefore, structural and process reforms are essential if the Department is to provide the best quality goods and services at the lowest cost. Moreover, aggressive reforms are in order to generate necessary savings to sustain adequate levels of funding for quality of life, core readiness and modernization initiatives.

The committee has taken several initiatives to begin structurally reducing the Pentagon's bureaucracy. First, the Office of the Secretary of Defense (OSD) would be reduced by at least 25% over four years. The committee was dismayed to learn that while the defense budget has declined by 34% and military force structure by 28% over the past decade, the size of OSD has actually grown by 22%. As part of the committee's reorganization initiatives, the number of Assistant Secretary positions would be reduced from the current eleven to nine. In order to allow the Secretary of Defense maximum flexibility to reorganize his own office, the committee recommends repeal of a number of provisions of current law that would prevent the Secretary from downsizing in the most orderly and efficient manner.

Second, the committee would direct an accelerated downsizing of the bloated civilian acquisition workforce to 25% over four years. As a fiscal year 1996 "downpayment," the committee would also direct an acquisition personnel reduction of 30,000. Approximately 50% of the Department's 867,000 civilians are currently employed in some element of the acquisition bureaucracy. In tandem with the personnel reductions, the committee would direct the Secretary to begin eliminating duplicative functions among the Department's numerous acquisition organizations. This structural downsizing, in combination with additional reforms of the overly complex and burdensome federal and defense acquisition process are central components to allowing the Department to operate in a more cost-effective and productive manner in the future.

While the committee considers last year's enactment of the Federal Acquisition Streamlining Act of 1994 as a significant step toward a more efficient federal procurement process, it was nonetheless an incremental step. The committee believes that a more fundamental reassessment of the policies and principles that underlie federal acquisition policy is in order and has begun a comprehensive review of such policies in tandem with other committees of the House with jurisdiction in this area.

These concerns underlie the committee's wide range of recommended structural and process reforms. Without dramatic change in the way in which the Department conducts its business, it will never be able to effectively respond to the challenges of the

post Cold War world, maximize the defense output of every defense dollar or rebuild the taxpayer's confidence in the Pentagon.

CONCLUSION

In developing the bill, the committee has taken a comprehensive series of steps to build a solid foundation for the revitalization of the U.S. military following a decade of decline. However, the committee recognizes that the challenges facing the defense establishment will require a longer-term sustained effort to protect core readiness, restore personnel quality of life and rebuild a virtually non-existent equipment modernization program. The committee stands prepared to continue this process in the years ahead to ensure that U.S. military capabilities are up to the difficult but certain challenges that an unsettled world will bring.

HEARINGS

Committee consideration of the Defense authorization bill for fiscal year 1996 results from extensive hearings that began on January 18, 1995 and that were completed on May 3, 1995. The full committee conducted 12 sessions, including markup meetings. In addition, a total of 44 sessions were conducted by five different subcommittees and two panels of the committee on various titles of the bill.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATION

TITLE I—PROCUREMENT

MODERNIZATION OVERVIEW

The committee continues to be concerned with the Department's anemic pace of equipment modernization, and notes with distress the delay or cancellation of long-term modernization programs to fund near-term personnel and readiness shortfalls. The fiscal year 1996 procurement budget request of $39.4 billion is $5.4 billion less than fiscal year 1995—a 15 percent cut in one year—and $9 billion less than was forecast for fiscal year 1996 by the Department one year ago. Furthermore, this request represents, after adjusting for inflation, the eleventh consecutive year of decline in the procurement account—cumulatively totaling 71 percent since fiscal year 1985—and the lowest procurement budget in 45 years.

The committee notes that the budget request does not provide for the acquisition of any bombers, scout or attack helicopters, new tanks or fighting vehicles, amphibious transport dock ships, Air Force fighter aircraft, or Army small arms procurement. With few exceptions, equipment modernization has come to a virtual standstill. Moreover, certain programs that the Department's Bottom Up Review endorsed just 18 months ago have been slipped, terminated or reduced to a development-only status. For the last year, CBO has testified that it will require $7–$30 billion per year, each of the first ten years of next century, above projected 1999 spending levels to properly equip and modernize the smaller Bottom Up Review force. The implications of this dramatic underfunded shortfall on the services as well as on the industrial base are obvious.

In order to better understand the implications of the Department's "procurement holiday," the committee held hearings to examine whether requirements continue to exist for certain programs; if so, the schedule associated with addressing these requirements; and the impact on the industrial base if either the requirements do not exist, are unfunded, or are sequenced such that they create production gaps. The committee was impressed by the testimony given by four retired four-star officers, whose recent assessment of current military capabilities and readiness concluded with the following admonition:

> Each generation owes the next a duty to invest in their future, to ensure they will have the equipment necessary to meet the challenges that will surely confront them. Today we are failing utterly to make that investment. Our legacy to the next generation is likely to be 45-year-old training aircraft, 35-year-old bombers and airlifters, 25-year-old fighters, 35-year-old trucks, and 40-year-old medium lift helicopters. If care is not taken to ensure mid-term readiness through modernization and long-term readiness through investment in research and development, we will eventually find ourselves facing an insurmountable bill to replace entire inventories of aging equipment with an industrial base unprepared for the task.

In response to this admonition and in order to prevent the atrophy of critical components of the industrial base, the committee has added over $6 billion to various modernization programs in this and other titles. Highlights include:

[In millions of dollars]

Army:	
UH–60L advanced procurement	75
OH–58D	125
Javelin missiles	39
Hellfire II missiles	40
TOW II missiles	20
MLRS rockets & launchers	59
ATACMS missiles	18
Small arms	77
Ammunition	268
Medium trucks	110
Heavy trucks	100
HMMWVs	39
Communications equipment	83
Navy/Marine Corps:	
AV–8B	160
E–2C	70
SLAM missiles	40
DDG–51 Aegis destroyer	650
LPD–17	974
ammunition	150
Air Force:	
B–2	553
F–15E	250
F–16C/D	175
Non-Developmental Airlift Aircraft	70
AGM–130 missiles	45
AGM–142 HAVE NAP missiles	39
Conventional Air-Launched Cruise Missiles	27
Defense-Wide:	
National Guard & Reserve Equipment	770

Offset Folio 42 Insert here

AIRCRAFT PROCUREMENT, ARMY

OVERVIEW

The budget request contained $1,223.1 million for Aircraft Procurement, Army in fiscal year 1996. The committee recommends authorization of $1,423.1 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folio 44 Insert here

OH–58D Armed Kiowa Warrior

The budget request contained $71.3 million for upgrade of 33 OH–58D helicopters to the Armed Kiowa Warrior configuration. While the Army currently plans for the Kiowa Warrior to provide critical armed reconnaissance capability on an interim basis until fielding the RAH–66 Comanche, the committee notes that the current inventory of Armed Kiowa Warriors is still well below the requirement for over 507 aircraft. Moveover, the committee observes that the Comanche program continues to experience program delays and currently has no Department-approved production schedule or fielding date.

For these reasons, the committee feels the Army should continue the Armed Kiowa Warrior upgrade program and recommends authorization of $196.3 million, an increase of $125 million, to fund an additional 20 aircraft. The committee recommends a legislative provision (sec. 111) that would modify current law to permit this procurement.

UH–60L helicopter

The budget request contained $334.9 million for procurement of 60 Blackhawk medium lift helicopters. The committee notes that the Army is terminating this program after fiscal year 1996, even though following delivery of these last 60 aircraft, the Blackhawk fleet will stand more than 700 helicopters short of the stated requirement for the 10-active-division Army. Moreover, the committee observes that neither the Navy, the Marine Corps, nor the Air Force is procuring any additional helicopters in the foreseeable future and that the only new helicopter program in development—the Army's RAH–66 Comanche—is not funded for production.

Given these circumstances, the committee believes there is a compelling need to maintain the Blackhawk production line and therefore recommends $75 million for advanced procurement of 36 helicopters in fiscal year 1997. The committee urges the Army to fully fund these 36 aircraft in the fiscal year 1997 budget.

MISSILE PROCUREMENT, ARMY

OVERVIEW

The budget request contained $676.4 million for Missile Procurement, Army in fiscal year 1996. The committee recommends authorization of $862.8 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folio 48 Insert Here

Hellfire missile

The budget request contained $209.5 million, which included $197.5 million to procure 352 Longbow Hellfire missiles and $12 million for post-production support for the Hellfire II program. The committee notes that the Army has prematurely stopped production of Hellfire II missiles well short of requirements due to budget constraints. While the Longbow Hellfire is sufficiently funded to enter production, this newest variant of the Hellfire family is not intended to fill all Hellfire requirements, and does not address the remaining requirement for over 6000 Hellfire II missiles.

The committee is informed that an additional $40 million, combined with the $12 million requested for post production support, would enable the Army to procure 750 Hellfire II missiles. Accordingly, the committee recommends authorization of $249.5 million, of which $52 million is for procurement of 750 Hellfire II missiles.

Stinger missile modifications

The budget request contained $10.1 million for retrofitting upgrades to 650 Stinger missiles. While this enhancement to existing missiles provides a valuable increase in close air defense for Army forces, the program is currently constrained by a Department-directed annual funding ceiling of $10 million through fiscal year 1999. The committee does not agree with this arbitrary ceiling and understands that adding $10 million to the budget request will enable the Army to upgrade an additional 550 missiles. Therefore, the committee recommends authorization of $20.1 million to be used to upgrade at least 1200 existing Stinger missiles.

Multiple launch rocket system launcher systems

The budget request contained $48.2 million for annual support and fielding of the Army's Multiple Launch Rocket System (MLRS) launcher systems, but this amount did not include funding for procurement of any new launchers. While the Army has progressed in its plan for fielding launcher systems to active and reserve forces, the committee notes that the final MLRS fielding package does not contain sufficient launchers to complete equipping the last Army National Guard battalion for which funds have previously been provided. Therefore, the committee recommends authorization of $64.6 million, an increase of $16.4 million, to procure sufficient MLRS launcher units to complete the battalion.

Javelin

The budget request contained $171.4 million for procurement of 557 Javelin missiles and 142 command launch units. Despite the Congress having added $83 million to the Army's underfunded fiscal year 1995 request to restore an efficient rate of missile production, the committee notes that the fiscal year 1996 request is once again insufficiently funded.

Therefore, the committee recommends authorization of $210.4 million, an increase of $39 million, to procure an additional 453 missiles.

WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

OVERVIEW

The budget request contained $1,299 million for procurement of Army weapons and tracked combat vehicles for fiscal year 1996. The committee recommends authorization of $1,359.7 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folio 54 Insert Here

Bradley fighting vehicle upgrade program

The budget request contained $138.3 million for the Bradley Base Sustainment program. Fiscal year 1996 is the last year that funding has been budgeted for the upgrade of the oldest configuration of the Bradley Fighting Vehicle (BFV) family—the A0—to the more modern and survivable A2 configuration. The committee is concerned that the termination of the A0 to A2 upgrade program is premature. When the current program is completed, there will still be about 2,000 A0 vehicles in the fleet. These vehicles lack the survivability and other enhancements needed for the modern battlefield. Indeed, Desert Storm proved that commanders demanded the more modern configuration when faced with a real battlefield threat. Thus, the committee believes that the Army should seriously consider continuation of the A0 to A2 BFV upgrade program. Consequently, the committee directs the Army to submit a detailed modification plan, including a funding profile, for continuation of this program with the fiscal year 1997 budget.

Small arms industrial base

The budget request contained no funds for procurement of personal defense weapons, M–16 rifles, M4 carbines, 5.56mm machine guns, or MK–19 40mm grenade machine guns.

In response to congressional action in fiscal year 1994, the Army directed the Army Science Board (ASB) to assess the health of the small arms industrial base. The ASB study confirmed emerging industrial base problems and presented funding and restructuring recommendations to avoid losing critical industrial capability.

However, in its fiscal year 1995 request, the Army did not fund any of the ASB recommendations and, instead, submitted another seriously underfunded small arms procurement request. The Congress was again compelled to provide additional funding for small arms and directed the Army to take seriously its industrial base commitment by budgeting for small arms in the fiscal year 1996 request. However, the results were the same as in prior years. The committee is disturbed by the Army's continuing failure to make any effort to sustain critical capabilities in the small arms industrial base, and the committee expects the Army to take appropriate action in the fiscal year 1997 request to address these problems.

The committee recommends authorization of an additional $77.0 million for continued small arms production and directs the Army to provide a report to the defense committees not later than February 1, 1996, outlining its plans for long-term preservation of the small arms industrial base. Recommended increases to small arms programs are as follows:

[In millions of dollars]

M–16 rifle	13.5
5.56mm M4 carbine	6.5
Personal defense weapon	2.0
5.56mm machine gun, (SAW)	28.5
40mm MK 19 grenade launcher	20.0
Medium machine gun	6.5

AMMUNITION PROCUREMENT, ARMY

OVERVIEW

The budget request contained $795 million for Ammunition Procurement, Army in fiscal year 1996. The committee recommends authorization of $1,062.7 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folio 58 Insert Here

Ammunition

The budget request contained $590.4 million for procurement of ammunition.

While the defense budget has experienced significant reductions in the last decade, funding for ammunition production has suffered a rate of decline that best approximates a virtual freefall. The committee is concerned by the fact that these large dollar reductions have led to severe losses of industrial capability. Of the 286 ammunition companies existing in 1978, only 88 remained in 1994, and only 52 are forecasted to remain by the end of 1995. At the same time, all branches of the armed forces continue to report large shortages of ammunition.

Congress added almost $400 million to the fiscal year 1995 budget request ($336 million of which went to the Army) to shore up this decline and to redress the shortages. Nevertheless, the Army's fiscal year 1996 request is some $50 million less than its fiscal year 1995 request. The committee recognizes the urgent need to address the shortfalls in the Army's procurement budget and the particularly urgent situation facing the ammunition account. Consequently, the committee recommends $858.1 for ammunition, an increase of $267.7 above the request, distributed as denoted in the accompanying table.

OTHER PROCUREMENT, ARMY

OVERVIEW

The budget request contained $2,256.6 million for Other Procurement, Army in fiscal year 1996. The committee recommends authorization of $2,545.6 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folios 61 to 63 Insert Here

Common hardware/software

The budget request did not contain any funds for procurement of common hardware/software (CHS).

The committee continues to monitor the progress in fielding CHS for the five battlefield functional areas of the Army Tactical Command and Control Systems (ATCCS) and remains concerned over the ability to achieve a smooth and timely fielding transition between CHS–I and CHS–II. The committee believes it would be imprudent, given the troubled testing and acquisition history of the program, to begin fielding CHS–II hardware prior to completing all required pre-production testing and evaluation. However, the Army's current plan allows the CHS–I contract to expire prior to completion of all CHS–II testing, in effect guaranteeing a production break. The committee believes that such an interruption would be detrimental to the overall success of ATCCS and unnecessarily delay fielding of critically needed command and control capabilities. Consequently, the committee directs the Army to extend the expiring CHS–I contract for two years, a period of time commensurate with minimizing fielding interruptions and final certification of CHS–II.

AIRCRAFT PROCUREMENT, NAVY

OVERVIEW

The budget request contained $3,886.5 million for Aircraft Procurement, Navy in fiscal year 1996. The committee recommends authorization of $4,106.5 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folio 66 Insert Here

V–22 tiltrotor aircraft

The budget request contained $762.5 million in research and development, test and evaluation funds and $48 million in advanced procurement funds for the V–22.

The committee notes that the Marine Corps, Navy and Air Force plan to acquire a total of 523 V–22 aircraft over a period of twenty seven years, resulting in a very low and inefficient production rate. Although it is technically feasible to accelerate that production schedule, the Department has placed an arbitrary $1 billion-per-year funding cap on the program.

The committee is also aware that the Defense Science Board (DSB) has made recommendations to reduce V–22 program costs by treating the three low rate initial production lots as a package in order to permit more efficient purchasing of parts and materials. Accordingly, the committee directs the Department to report to the congressional defense committees on options to implement the DSB recommendations and to provide more efficient production rates for the V–22 program. The Department's findings should accompany the fiscal year 1997 budget submission.

WEAPONS PROCUREMENT, NAVY

OVERVIEW

The budget request contained $1,787.1 million for Weapons Procurement, Navy in fiscal year 1996. The committee recommends authorization of $1,626.4 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

offset folios 69 to 70 insert here

Penguin anti-ship missile

The budget request did not contain any funds for procurement of the Penguin missile.

The committee is concerned that the Navy has failed to complete a commitment to procure 193 Penguin missiles in spite of an identified, ongoing requirement. The confusion that this issue has caused could have a significant long-term impact on readiness as well as future foreign military sales. The committee directs the Department of the Navy to review the Penguin missile program and report to the congressional defense committees on its status, the success rate of the missile under the mandated rules of the insensitive munition specification, the requirement to procure additional Penguin missiles, the unit cost of the missile, and the overall funding required to economically procure additional missiles to augment the Navy's current capability.

AMMUNITION PROCUREMENT, NAVY/MARINE CORPS

OVERVIEW

The budget request did not contain any funds for Ammunition Procurement, Navy/Marine Corps in fiscal year 1996. The committee recommends authorization of $461.8 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

offset folio 173 inserts here

Ammunition

The budget request contained $110.9 million for procurement of ammunition for the Marine Corps. As expressed elsewhere in this report, the committee is deeply concerned with the low level of ammunition procurement for both the Army and the Marine Corps in the fiscal year 1996 budget request. Marine Corps ammunition has been reduced to such low inventory levels that the Commandant identified unfunded ammunition requirements as his highest priority for increased procurement funding.

Accordingly, the committee recommends authorization of $230.9 million for procurement of ammunition for the Marine Corps, an increase of $120 million to be distributed as follows:

[In millions of dollars]

7.62 mm, all types	10.0
.50 cal. SLAP M903/M962	24.3
.50 cal. API M8/M20	33.8
81 mm mortar XM816	6.7
155mm propellant charge M203A1	32.0
Fuze, ET, XM762	10.0
Smoke grenade M18	0.7
Blasting time fuze igniter M60	0.4
Demolition explosive	2.1

SHIPBUILDING AND CONVERSION, NAVY

OVERVIEW

The budget request contained $5,051.9 million for Shipbuilding and Conversion, Navy in fiscal year 1996. The committee recommends authorization of $6,228 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

offset folio 176 inserts here

National defense sealift fund

The budget request contained $974.2 million for the National Defense Sealift Fund (NDSF). Of this amount, $596.1 million is requested for two new large medium-speed roll-on/roll-off (LMSR) vessels that will be used for prepositioning of equipment and surge sealift requirements, $289 million for operation and maintenance of the Ready Reserve Force (RRF) fleet, $70 million to purchase existing roll-on/roll-off (RO/RO) ships for the RRF, and $19.1 million to continue sealift development technology efforts.

The committee recommends authorization of the requested amounts and an additional $600 million for the purpose of accelerating the acquisition of two more LMSRs. However, consistent with its actions last year, the committee denies authorization of the funds requested to purchase existing RO/Ros for the RRF.

Roll-on/roll-off ships for the ready reserve force

The committee believes that the $70 million requested to purchase used, foreign-built and -owned RO/RO ships for the RRF is not in the national security interest, is not cost-effective, and would weaken the U.S. shipbuilding industrial base. Accordingly, the committee does not recommend authorization of these funds for this purpose. Instead, the committee recommends authorizing $70 million for the procurement and installation of national defense features (NDF) on commercial vehicle carriers built in and documented under the laws of the United States, as provided for in section 1024 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484). The committee believes an NDF program will provide substantially superior ships, save or create a significant number of jobs in the shipbuilding and supplier industrial base, assist U.S. shipyards in reentering the commercial shipbuilding market, and help preserve rapidly dwindling seafaring manpower and skills.

Confirming the committee's assessment, the Department has submitted a report demonstrating that an active RRF, utilizing NDF on newly built commercial vehicle carriers, would have "important benefits" and would be a cost-effective means of recapitalizing the aging, lower-readiness RRF fleet at the end of the decade. The report estimates, for example, that total discounted life cycle cost for a thirteen-year old, inactive RRF–5 day ship would be $860 per square foot, whereas a newly built active RRF vessel with NDF would have a net present value cost of $320 per square foot. The report further shows that an active RRF of vehicle carriers with strengthened decks and ramps and sufficient space to carry heavy, out-sized military equipment would provide fully-crewed RO/Ros within the time demands contemplated in an emergency.

However, as the Department's report correctly indicated, securing entry into the commercial vehicle carrier market will be a "critical element" for the success of the NDF program. The committee considers the NDF program and, in particular, the entry of new U.S.-built commercial car carriers equipped with NDF in the U.S.-Japan trading market to be in the national interest. The committee therefore urges the Department of Defense to encourage the Government of Japan to recognize that cooperation to overcome flag barriers and to augment American participation in this trade mar-

ket will advance the mutual defense and security interests of our two nations.

The committee further directs the Navy to submit a detailed plan for executing this NDF program, including the process by which the Navy will review U.S. shipyard proposals and designs to determine their dual-use capability and the schedule for initiating the program. The report is to be submitted to the congressional defense committees no later than six months from the date of enactment of the National Defense Authorization Act for fiscal year 1996.

Large medium-speed roll-on/roll off ship (LMSR) contract options

The committee notes that there continues to be a shortfall in meeting the prepositioning and surge sealift requirements established by the Department's Mobility Requirements Study (MRS) and recently revalidated by the MRS Bottom Up Review Update. The acquisition of 19 LMSRs is underway to partially address this shortfall. Contracts have been placed for 17 of the LMSRs: conversions of five existing ships and 12 new construction vessels. Six of these new construction vessels have been awarded and contract option prices have been negotiated for the remaining six—three options each at two shipyards. Funding for two of the options, one at each yard, is requested in fiscal year 1996.

The acquisition strategy of the final two LMSRs has not yet been determined by the Navy, although funding for these two ships is currently planned in fiscal year 1999. The committee received testimony that each of the two shipyards building new LMSRs could possibly deliver an additional LMSR before the current scheduled delivery of their sixth ship, if the seventh LMSR were awarded soon and each yard were allowed to fit the ship into its production schedule at the most efficient point. Accordingly, the committee believes that the options for these last two LMSRs should be added to the current contracts in order to allow the yards to do the necessary planning and to obtain material pricing options to integrate an additional ship into their series production process.

Therefore, the committee recommends a provision (sec. 1021) urging the Navy to negotiate an option price for the seventh LMSR at each of the two new-construction shipyards, assuming an option exercise on or before either December 31, 1995, December 31, 1996, or December 31, 1997.

Attack submarines

The budget request contained $1,507.5 million for procurement of a third Seawolf-class nuclear attack submarine (SSN–23). It also contained $704.5 million for advanced procurement of a follow-on to the Seawolf, the New Attack Submarine (NAS).

The Seawolf, originally slated to replace the Los Angeles-class submarines (SSN–688s), was designed to counter the Cold-War, open-ocean threat posed by the Soviet navy. The first Seawolf (SSN–21) was funded in fiscal year 1989 and the second in fiscal year 1991. However, with the demise of the former Soviet Union, Seawolf production was terminated by the Bush Administration in fiscal year 1993. The Navy began preliminary work on the NAS in 1988 and publicly announced the program in 1991.

The rationale for completing construction of the SSN–23 was first made in the September 1993 Department of Defense Bottom Up Review (BUR). When the Department completed the BUR, there were around 90 nuclear attack submarines in the fleet. By the end of fiscal year 1995 there will be 82 and by the end of fiscal year 1999 the number will shrink to 55. This latter number is the upper end of the force size endorsed by the BUR as needed to meet both the Department's wartime and its peacetime presence requirements. The number judged to be necessary to meet only wartime requirements was 45. Therefore, the committee observes that there were in September 1993 and are now more attack submarines on hand and in the delivery pipeline than needed to meet the BUR force levels.

In formulating the BUR recommendation, the Department was confronted with how to modernize the attack submarine fleet in the face of a significantly reduced requirement, while preserving a viable submarine production base. Unlike those defense industry segments that have a commercial counterpart for their military products, no commercial market exists for nuclear attack submarines. Confronted with this prospect, and the fact that the Navy would place no production orders until those for the NAS in fiscal year 1998, the BUR faced either shutting down one of the nuclear-certified shipyards, or devising an option to keep both yards open. The latter option was chosen.

The BUR decision was to produce a third Seawolf in fiscal year 1995 or fiscal year 1996. Furthermore, construction of this submarine was to be directed on a sole-source basis to the Electric Boat Division of General Dynamics to "bridge" the projected gap in submarine production until NAS (also directed to be produced at Electric Boat) is to begin construction in fiscal year 1998. This decision assumed that much of the skilled submarine workforce at Newport News Shipbuilding, the nation's other producer of attack submarines, would be transferred to construction of nuclear aircraft carriers.

Thus, the committee was faced with two issues regarding submarine acquisition: whether to complete funding of the third Seawolf and whether to provide the initial increment of procurement funding for the NAS. In the process of addressing the latter issue, the committee also had to address the question of who should build the NAS.

As a result of the committee's oversight hearing on submarine acquisition issues, an analysis was undertaken to estimate the relative long-term costs to the government of two-yard and one-yard strategies for acquisition of nuclear-powered warships. Under the one-yard or consolidated strategy, Newport News would build both submarines and aircraft carriers. This analysis involved input from Newport News and the Navy and was reviewed by the Congressional Budget Office, the Congressional Research Service, and the General Accounting Office.

The results of this analysis indicated that if a decision between the two-yard and one-yard strategies were to be made solely on the basis of relative long-term costs to the government, the one-yard strategy would be the lower cost approach. Nevertheless, the com-

mittee has not opted to consolidate construction of nuclear-powered warships at one yard at this time.

However, the committee disagrees with the Department's plan to determine the builder of the NAS by administrative allocation, without the benefit of competition. The committee shares the strong concerns expressed last year by the Appropriations Committees that the estimated procurement cost of the NAS must be reduced substantially—from the current estimated figure of $1.5 billion per submarine down to $1.2 billion—and believes this objective can best be achieved through competition. But the committee rejects the idea of a one-time, winner-take-all competition based on paper bids by the two shipyards to decide the builder of the NAS. The committee is also concerned, in light of the potential performance of Russian fourth- and fifth-generation submarines, that the current NAS design may not be capable enough, even with modular upgrades for later boats in the class, to meet the potential Russian submarine threat of 2004, when the fiscal year 1998 submarine is to enter service, and the years beyond.

Consequently, the committee recommended a modification to the Department's plan that avoids selecting the builder of the follow-on serial-production submarine design on the basis of administrative allocation or a competition based on paper bids, and that also supports the committee's objective of developing a submarine design for serial production that represents a substantial improvement in both affordability and capability over the current NAS design. The intent of the committee's action is to establish a national priority program that employs both a technological competition between the two submarine shipyards and the technical resources of the Advanced Research Projects Agency (ARPA) and the Department of Energy's (DOE) national laboratories.

This program would provide Electric Boat and Newport News an opportunity to demonstrate their skills as innovative submarine designers and builders. It would also insure that the talents of both of these shipyards, as well as those of ARPA and the DOE laboratories, are fully focused on the high-priority task of identifying advanced technologies for improved designs.

Consequently, the committee does not authorize construction of the SSN–23. Rather than funding construction of a third Seawolf, which would be built to the same design as the first two submarines and would therefore not permit EB to demonstrate its talents as an innovative submarine designer and builder, the committee's plan funds the construction of two outfitted submarine hull sections.

The first of these two sections will be fitted into the second Seawolf submarine (SSN–22) to create a lengthened, expanded-capability variant of the basic Seawolf design, while retaining its full weapons load. The second of these sections will be incorporated into the fiscal year 1998 submarine, to convert that submarine from the lead ship of a serial-production class based on the current NAS design into an additional, one-of-a-kind, expanded-capability platform derived from the current NAS design. The Navy is authorized to contract separately for the construction of the hull section for the fiscal year 1998 submarine even though that submarine will not be fully funded until then. The committee authorizes $704.5 million in

advanced procurement funding, as requested by the Navy, for detailed design work and procurement of long-lead items for the fiscal year 1998 submarine. The design of this submarine shall be altered as necessary to accommodate the installation of the special hull section during the construction process.

Electric Boat will design and build both of these sections so as to maintain a minimum core work force of skilled submarine construction workers. The hull sections may be optimized for special operations forces, mine warfare, land attack missiles, other missions or some combination, as determined by the Navy.

The committee recommends a total of $1,554.5 million for this work—$550 million to design and build the hull section to be installed in SSN–22, $300 million for the hull section to be installed into the fiscal year 1998 submarine, and $704.5 million in advanced procurement funding for the fiscal year 1998 submarine. The committee recommends a provision (sec. 132) that would repeal the cost cap for SSN–22 in order to accommodate this approach. Unexpended prior-year funding available for SSN–23 construction may be used for contract termination liability and/or to maintain critical component sources.

Rather than allowing Newport News' submarine design and construction skills to atrophy, the committee's plan provides it with an analogous opportunity to demonstrate its talents as an innovative submarine designer and builder. The committee directs the Navy to make Newport News a full consultant in the current submarine design effort at Electric Boat, so that Newport News can develop and maintain an equal understanding of the NAS design. To that end, the committee directs that $10 million of the funds requested for NAS detailed design work shall be used only for establishing and maintaining a cadre of Newport News submarine designers at Electric Boat and for transfer of all NAS design data from Electric Boat's design data base to Newport News'.

In addition, the committee recommends $150 million to be used only as initial funding for an effort at Newport News to design, develop, and build prototype versions of major submarine components which have the potential for achieving a follow-on submarine design for serial production that represents a substantial improvement in affordability and capability over the current NAS design. This effort, like the one at Electric Boat, shall take maximum advantage of technology available from ARPA and the national laboratories.

ARPA and the national laboratories are directed to cooperate with both Electric Boat and Newport News in making available and assisting in the transition to both shipbuilders technologies—such as global quieting, hydrodynamic advances, and information and signature management—which show potential for achieving a follow-on submarine design for serial production that represents a substantial improvement in affordability and capability over the current NAS design.

The committee anticipates that the efforts by both shipbuilders to demonstrate their skills as innovative submarine designers and builders will continue into fiscal year 1997. The committee is determined to ensure that dramatic steps are taken to develop and deploy a highly capable and affordable submarine for the twenty-first

century. The committee views such a submarine as a critical national asset. Accordingly, the committee directs the Navy to plan for and appropriately fund these efforts in its fiscal year 1997 budget request. Continued funding for the Newport News effort should be commensurate with the work proposed by the company. At the end of this two-year process, the results of the Electric Boat and Newport News efforts will provide the basis for a follow-on submarine design that can be competed for serial production. The committee recommends a provision (sec. 133) that would require this competition.

LPD–17

The budget request contained no funds for construction of the lead ship (LPD–17) of a new amphibious transport dock class. The LPD program anticipates building 12 modern amphibious ships—critical to the support of Marine Corps lift requirements—to replace 41 older ships approaching obsolescence.

While funding for the lead ship was planned in fiscal year 1996, the program was slipped to fiscal year 1998 due to budget constraints. Since funding construction of LPD–17 in fiscal year 1996 makes possible a total program cost savings of approximately $828 million, the committee recommends authorization of $974 million for this purpose.

Fast patrol craft

The budget request contained no funds for a fast patrol craft.

With the Navy's new emphasis on expeditionary forces, coastal patrol, and interdiction, the committee is concerned that more emphasis should be placed on inexpensive fast patrol craft for use in littoral warfare, rather than placing high-cost, high-technology capital ships in danger. The committee believes a high speed craft capable of carrying multiple anti-surface missiles and significant command, control, communications and intelligence assets would provide a highly capable multimission adjunct to the service's current fleet.

Accordingly, the committee authorizes $9.5 million for the procurement of a fast patrol craft.

OTHER PROCUREMENT, NAVY

OVERVIEW

The budget request contained $2,396.1 million for Other Procurement, Navy in fiscal year 1996. The committee recommends authorization of $2,461.5 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folios 86 to 89 Insert Here

Trident navigation commonality program

The budget request did not include funds for procuring a Trident strategic weapon system navigation commonality program shipset. The committee recommends an additional $31.5 million to procure a fifth such shipset. Further, the committee directs the Secretary of the Navy to ensure that the Navy's budget submission for fiscal year 1997 includes funds to procure the sixth shipset and to install the fifth and sixth shipsets.

MK–49 ring laser gyro

The budget did not contain any funds for the MK–49 ring laser gyro (RLG).

The commanders of the Pacific and Atlantic submarine fleets have expressed an urgent need to expedite the introduction and backfit of the MK–49 RLG ship navigator into their fleets. According to the fleet commanders, the high failure rate of the current twenty-year old electrically suspended gyro navigator (ESGN) cost the Navy in excess of $26 million in maintenance funds in fiscal year 1994 alone. The low cost and high reliability of the new MK–49 system dictates its earliest possible installation. The MK–49 RLG will more than pay for itself in less than three years through maintenance cost savings alone. Accordingly, the committee denies the Navy's request to upgrade the old ESGN system and instead authorizes $10 million for the procurement and installation of the MK–49 RLG navigator.

AN/BPS–16 submarine radar

The budget request did not contain any funds for the AN/BPS–16 submarine radar.

The Navy is experiencing high failure rates and high costs in maintaining the 1960s era AN/BPS–15 submarine navigation radar, which, since spare parts are no longer in production, is becoming insupportable. The committee is concerned with the Navy's not budgeting for backfit into the fleet of the AN/BPS–16 radar, which was designed and selected as the follow-on system to the AN/BPS–15. Fleet safety is at risk without this reliable, all-weather, state-of-the-art radar when navigating in and out of port and during tactical operations at sea. Thus, the committee authorizes $9 million for procurement of AN/BPS–16 radar systems and directs the Navy to submit an acquisition plan for procurement and installation of BPS–16 radars on existing submarines. The plan should provide for an efficient rate of production to enable the Navy to most cost-effectively procure these systems, while ensuring that the submarine radar industrial base is sustained.

Safety and survivability items

The budget request did not contain any funds for safety and survivability items.

The committee is aware that the Navy's Office of Safety and Survivability has performed operational assessments on non-developmental items which will improve safety and survivability in the fleet and Marine Corps field forces and that several of those items have been identified as priorities for fleet-and force-wide procurement. However, the committee recognizes that the Navy and Ma-

rine Corps currently fund only a limited number of them on an ad-hoc basis, and is concerned that many critical items remain unfunded. Consequently, the committee recommends $20 million to purchase non-developmental life safety items which have been identified by the operational commands and the Office of Safety and Survivability as priorities for procurement.

Propeller shaft composite fairwaters

The budget request did not contain any funds for propeller shaft composite fairwaters.

The committee understands that the Navy is conducting fleet testing of propeller shaft composite fairwaters in order to reduce maintenance costs and enhance combat ship readiness. Inspection and replacement of noisy or damaged shaft bearings currently requires drydocking a ship and the cutting off, discarding, and welding on a new set of copper-nickel fairwaters. By contrast, composite fairwaters can be bolted on and unbolted underwater, are hydrodynamically shaped to reduce acoustic signature, are non-fouling, and are corrosion-resistant. Therefore, the committee recommends an increase of $3 million to begin backfit of composite fairwaters during the next four regularly scheduled overhauls of CG–47 class cruisers. The committee strongly endorses a continued backfit program for these ships and encourages the Navy to initiate a similar program for the destroyer fleet.

PROCUREMENT, MARINE CORPS

OVERVIEW

The budget request contained $474.1 million for Procurement, Marine Corps in fiscal year 1996. The committee recommends authorization of $399.2 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folios 96 to 97 Insert here

Lightweight reconnaissance/strike vehicles

The budget request contained no funds for the lightweight reconnaissance/strike vehicles.

The committee understands that there is a requirement for lightweight, high performance all-terrain vehicles for a number of critical missions, such as special operations and forward reconnaissance in conventional operations. Current vehicles for these missions are easily detected, have limited mobility, and are not easily transportable.

Accordingly, the committee recommends $2 million for procurement of light reconnaissance vehicles for the Marine Corps and $6 million for procurement of light strike vehicles for the special operations forces.

Indoor simulated marksmanship trainer

The budget request contained $17.8 million for Marine Corps training devices. This amount included $6.5 million for indoor simulated marksmanship trainers (ISMTs) which provide individual weapons proficiency training for active and reserve Marine forces while deployed at sea or away from live fire range facilities. The committee understands that the ISMT is a high priority program for the Marine Corps but is not being procured in sufficient quantities due to funding constraints.

The committee is also informed that an option exists under the current contract to save over $13 million by procuring the final 181 ISMTs in fiscal year 1996. Accordingly, the committee recommends authorization of $51.8 million for training devices, and directs the Marine Corps to use $34 million of these funds to complete the procurement of 181 ISMTs.

AIRCRAFT PROCUREMENT, AIR FORCE

OVERVIEW

The budget request contained $6,183.9 million for Aircraft Procurement, Air Force in fiscal year 1996. The committee recommends authorization of $7,032 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations. detail.

Offset Folios 101 to 102 Insert here

Strategic airlift

The budget request contained $2,402.5 million for procurement of eight C–17 aircraft in fiscal year 1996 and $183.8 million for advanced procurement for "strategic airlift" in fiscal year 1997. The committee notes that the use of the term "strategic airlift" permits procurement of either C–17 aircraft or a non-developmental airlift aircraft (NDAA). The committee further notes that consideration of an NDAA option was initiated originally out of concern that the C–17 program was not performing well. However, the committee observes that there have been positive achievements of the C–17 program within the past year. Recent deliveries of C–17s have been ahead of schedule, and both the quality and production performance have improved significantly. The committee's focus continues to be both on the performance of the C–17 aircraft, and on adequate airlift capacity for both the long and short term.

The committee remains concerned with the need to modernize the Department's strategic airlift fleet and is pleased to note the continued emphasis on the importance of strategic airlift expressed by both theater commanders and other Department witnesses during committee hearings on this subject. The committee also notes that the requirement for strategic airlift modernization is further reinforced by the recently-released Mobility Requirements Study Bottom Up Review Update. While the Department has not yet determined its complete airlift modernization plans, the case for accelerating procurement of strategic airlift aircraft appears to be compelling.

With the looming retirement of the C–141 fleet, the Department acknowledges a pending shortfall in strategic airlift capacity. The November 1995 review by the Defense Acquisition Board (DAB) is intended to decide the composition of the future strategic airlift fleet to mitigate this shortfall. It is not the committee's intent to prejudice or in any way influence the outcome of the review process. The committee believes that the Department's review process must adequately address and resolve the pending shortfall in airlift capacity. Air Force officials have verified that a competitive acquisition program for procurement of NDAA is underway, and could lead to procurement of aircraft in early 1996, should the Department opt for a mix of C–17 and NDAA to meet its future needs.

The committee recommends authorization of $2,402.5 million for procurement of eight C–17s and $183.8 million for strategic airlift. Although the committee has been assured by Air Force officials that sufficient funds are contained within the C–17 request, when combined with available NDAA funds from fiscal year 1994, to procure eight C–17s and to competitively procure some number of NDAA should the Department opt to do so, the committee is doubtful that such is the case.

Therefore, the committee also recommends authorization of $70 million for NDAA, and permits the Air Force to merge these funds with $85 million remaining from fiscal year 1994 funds authorized for this purpose in order to procure at least one NDAA, if this option is supported by the DAB decision on strategic airlift later this year. If the Department's decision is to procure a C–17-only fleet, the funds identified for NDAA may be used for that purpose. The

committee does not intend for these funds to be used to enter any lease-to-own NDAA program.

The committee further directs that no funds for procurement of C–17 aircraft in fiscal year 1996 be obligated until the Secretary of Defense provides the congressional defense committees a specific plan for maintaining strategic lift capability for the next decade as nearly as possible to the current capability, while allowing for the scheduled retirement of the C–141 fleet. In developing this plan, the Department must give serious consideration to the implications that procurement of strategic airlift would have on the Civil Reserve Air Fleet.

Fighter aircraft

The budget request contained no funds for procurement of new fighter aircraft for the Air Force.

The committee notes that the production base for F–15Es and F–16s is currently sustained largely by foreign sales and that no additional U.S. procurement of these aircraft is forecast. However, senior Air Force officials have confirmed that both the F–15E and the F–16 will need to be retained in the inventory much longer than originally planned and have concluded that a need exists for additional F–15Es and F–16s to maintain minimum attrition reserve requirements to sustain a twenty fighter-wing-equivalent force structure. Also, industry witnesses have testified that at least a nominal U.S. production rate of current fighters should be sustained, absent any Administration effort to lift restrictive export policies which prohibit fighter aircraft manufacturers from competing for business worldwide, in order to preserve critical elements of the fighter aircraft industrial base.

In order to address both the attrition reserve requirement and fighter aircraft industrial base concerns, the committee recommends authorization of $250 million for procurement of six F–15Es and $175 million for procurement of six F–16s. The committee observes that ongoing production of F–15Es and F–16s for foreign sales allows a limited opportunity to address these requirements at more affordable aircraft unit costs. The six F–15Es are intended to fill training base shortfalls and can be procured without complete combat equipment packages, thereby further reducing the cost of each aircraft.

B–2 stealth bomber

The budget request contained $279.9 million for continued production-related activities for the B–2 stealth bomber. The request did not include funds for long-lead materials necessary to produce additional aircraft beyond the twenty combat-capable aircraft previously approved by Congress.

The committee does not support terminating the B–2 program at 20 aircraft. Numerous studies indicate that the United States will require more than 20 B–2 bombers to support the U.S. national military strategy. Most independent analyses identify a force of between 30–40 B–2 bombers as the minimum effective number necessary to prosecute two nearly simultaneous major regional contingencies (MRCs).

The committee has received testimony from senior military leaders that the Department's so-called bomber "swing" strategy is untested and entails enormous risk. This strategy would have bombers swing from an initial MRC to a second MRC, while the first conflict was still underway. The committee rejects this "swing" strategy, which is dictated by the current, inadequate bomber force structure, as well as the Department's plans for having no bomber production capacity for the foreseeable future. Indeed, the committee is disturbed that the B–2 bomber industrial base is rapidly approaching final shutdown.

For these reasons, the committee recommends an additional $553 million to begin the process of reestablishing those elements of the B–2 production line that have already been laid away and for procurement of long-lead items for additional aircraft. In addition, the committee directs that all funds remaining from the $125 million appropriated in the Department of Defense Appropriations Act for Fiscal Year 1995 (Public Law 103–335) for the B–2 bomber industrial base preservation or next-generation bomber studies be merged with the $553 million and used for the same purposes.

B–1B repair and maintenance improvements

The budget request contained $216 million for procurement of common aircraft ground equipment. As a result of prior congressional direction, the Air Force conducted an Operational Readiness Assessment (ORA) of the B–1B bomber to determine the extent to which the provision of planned spares, manpower, and logistics support would enable the B–1B force to achieve the planned mission capable rate (MCR) of 65 percent.

Positive test results validated both the inherent capabilities of the B–1B aircraft and the Air Force's models and planning assumptions as to the spares, manpower, and support needed to sustain the B–1B force. However, as a result of the test, the Air Force identified several repair and maintenance improvements that should permit the B–1B's fleetwide MCR to reach 75 percent. The committee recommends an additional $11.1 million for this purpose, allocated as follows: $7.2 million for B–1 ORA modifications and $3.9 million in operations and maintenance, Air Force.

AMMUNITION PROCUREMENT, AIR FORCE

OVERVIEW

The budget request did not contain any funds for Ammunition Procurement, Air Force in fiscal year 1996. The committee recommends authorization of $321.3 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Insert Table 109 RIGHT HERE

MISSILE PROCUREMENT, AIR FORCE

OVERVIEW

The budget request contained $3,647.7 million for Missile Procurement, Air Force in fiscal year 1996. The committee recommends authorization of $3,430.1 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Insert Table 111 thru 112 RIGHT HERE, also

Intercontinental ballistic missile guidance replacement program

The budget request did not contain procurement funds for the intercontinental ballistic missile (ICBM) guidance replacement program. The committee recognizes the importance of maintaining a viable ICBM force of 450–500 missiles, as called for in the Department's Nuclear Posture Review. Accordingly, the committee recommends an additional $10 million to initiate production of this program.

Precision guided munitions

The budget request contained no funds for procurement of AGM–130 powered GBU–15 laser guided bombs, AGM–86B conventional air launched cruise missiles (CALCMs), or AGM–142 HAVE NAP medium-range tactical missiles. The committee has great concern over the serious shortage of standoff precision-guided munitions (PGMs) currently available to the services. The force multiplier effect of PGMs was clearly demonstrated in Desert Storm, and the Department has relied heavily on this enhanced capability in determining that its modernized Bottom Up Review force can fight and win two nearly-simultaneous major regional contingencies (MRCs). Elsewhere in the report the committee has expressed its reservations with the Department's assertion that a smaller bomber force will be able to operationally support two MRCs. The committee notes that this assertion is without foundation based on both inadequate bomber force levels and lack of sufficient one-shot-one-kill standoff PGMs.

The committee acknowledges the Department's efforts to accelerate acquisition of the Joint Direct Attack Munition and the Joint Standoff Weapon in the wake of the termination of the Tri-Service Standoff Attack Missile (TSSAM). Department officials also have begun discussions of a follow-on replacement for TSSAM. However, the committee notes that all of these weapons are still in the development stage and address but a portion of the services' requirements for standoff PGMs.

Consequently, the committee recommends authorization of an additional $40 million for procurement of 100 AGM–130 powered GBU–15 laser guided bombs for the Air Force F–15 fighter. Additionally, the committee recommends authorization of $5 million to be added to PE 64733F in Title II of this report in order to develop B–52H modifications which would enable a portion of the B–52 fleet to be armed with AGM–130s.

The committee further recommends authorization of $27.2 million for conversion of 200 AGM–86B nuclear-capable air launched cruise missiles to a conventional configuration and $39 million for procurement of 54 HAVE NAP electro-optical/infrared guided missiles. These two standoff PGMs will provide near-term capability for the bomber fleet, while awaiting future Department decisions on standoff weapons.

OTHER PROCUREMENT, AIR FORCE

OVERVIEW

The budget request contained $6,804.7 million for Other Procurement, Air Force in fiscal year 1996. The committee recommends authorization of $6,784.8 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folios 116 to 118 Insert here

PROCUREMENT, DEFENSE-WIDE

OVERVIEW

The budget request contained $2,179.9 million for Procurement, Defense-Wide in fiscal year 1996. The committee recommends authorization of $2,205.9 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folios 120 to 121 Insert here

Composite health care system

The committee continues to support the acquisition of an automated system for the Department's health care facilities, but is concerned over delays to procure the Composite Health Care System (CHCS). The committee supports the Department's recent decision to increase the availability of technical alternatives, engineering talent and commercial off-the-shelf (COTS) products available to meet CHCS requirements by moving to a multiple contract approach. The committee encourages the integration of COTS products to accelerate completion of the automated system, to prevent unnecessary developmental expenditures and to meet the needs of the Department's health care facilities. The committee notes that the PACEMEDNET telecommunications testbed program is nearing completion and encourages the Department to consider the results of this effort in acquisition decisions for the CHCS.

Automated document conversion

The budget request did not contain any funds for an automated document conversion system (ADCS).

The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) requires the Department to acquire and test an ADCS for the purpose of converting archival drawings and systems specifications into forms of data that support high-level intelligent usage. The Defense Logistics Agency was selected to coordinate the test, and the Defense Printing Service was selected to execute testing at field printing plants.

The committee is very pleased with the results of the test. According to the test analysis report, the test confirmed that there is a "genuine requirement for conversion of legacy engineering technical documents and drawings to revisable vector formats." In addition, the test confirmed that "potential savings in labor expenditures are available from the use of automation-assisted conversions of legacy raster engineering graphical data to formats suitable for a CAD environment."

Funds were appropriated in fiscal year 1995 to provide the necessary software to sites which have a need to convert raster files to an intelligent format. The committee is concerned because the Department has moved very slowly in spending these funds. The committee directs the Department to expedite the obligation of these funds. In addition, the committee authorizes $20 million in fiscal year 1996 to continue providing conversion software.

Air National Guard

The committee notes the increased reliance of the Air Force on National Guard units and is concerned that the Guam Air National Guard should have a clearly defined role as part of the Air Force presence in the Western Pacific. Therefore, the committee requests that the Secretary of the Air Force report to the congressional defense committees on an enhanced role of the Guam Air National Guard for weather reconnaissance, airlift, and search and rescue missions.

NATIONAL GUARD AND RESERVE EQUIPMENT

OVERVIEW

The budget request did not contain any funds for National Guard and Reserve Equipment for fiscal year 1996. The committee recommends authorization of $770 million for fiscal year 1996.

Offset Folio 126 Insert here

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

OVERVIEW

The budget request contained $746.7 million for Chemical Agents and Munitions Destruction, Defense for fiscal year 1996. The committee recommends authorization of $746.7 million for fiscal year 1996.

The committee recommends approval of the request except for those programs adjusted in the following table. Unless otherwise specified, adjustments are without prejudice and based on affordability considerations.

Offset Folio 128 Insert here

SECTION 131—REPEAL OF PROHIBITION ON BACKFIT OF TRIDENT SUBMARINES

This section would repeal the provision of law that prohibits the backfit of Trident II (D–5) missiles into Trident I (C–4) missile-carrying submarines. The committee notes that the Department of Defense Nuclear Posture Review endorsed a strategic nuclear force structure that includes 14 strategic missile-carrying submarines, all outfitted with Trident II (D–5) missiles. The committee endorses an all-D–5 submarine-launched ballistic missile force.

SECTION 141—REPEAL OF LIMITATIONS

This section would repeal limitations on the total program cost of the B–2 stealth bomber program, the number of B–2 aircraft, and the obligation of funds authorized for enhanced bomber capabilities.

SECTION 151—REPEAL OF REQUIREMENT TO PROCEED EXPEDITIOUSLY WITH CHEMICAL DEMILITARIZATION CRYOFRACTURE FACILITY AT TOOELE ARMY DEPOT, UTAH

This section would repeal an obsolete provision of law that requires developing a chemical demilitarization cryofracture facility at Tooele Army Depot, Utah.

SECTION 152—SENSE OF CONGRESS REGARDING COST GROWTH IN PROGRAM FOR DESTRUCTION OF THE EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS

This section expresses the sense of Congress regarding the growth in the estimated cost of demilitarizing the United States chemical munitions stockpile and other general concerns regarding the program. Prior to the conference between the defense authorizing committees on the Fiscal Year 1996 Defense Authorization Act (H.R. 1530) the committee intends to hold a hearing that would address the current status of the chemical demilitarization program and measures that could be considered to reduce overall cost, while minimizing total risk and ensuring the maximum protection for the environment, the general public, and the personnel involved in the destruction of lethal chemical agents and munitions. The committee could then address matters of interest raised at the hearing during the conference.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

OVERVIEW

The budget request for fiscal year 1996 for research, development, test, and evaluation (RDT&E) included $34,331.953 million. This represents a $1,737.724 million decrease from the amount authorized for fiscal year 1995.

The committee recommends authorization of $35,934.447 million, an increase of $1,602.494 million, for fiscal year 1996.

The committee recommendations for the fiscal year 1996 RDT&E program are identified in the table below. Major issues are discussed following the table.

Offset Folio 134 insert here

DEFENSE-WIDE PROGRAMS

SPECIAL CONSIDERATIONS

Cruise missile defense

Along with the threat posed by ballistic missiles, the committee is concerned about the growing threat posed by cruise missiles. Cruise missiles, particularly those capable of land-attack roles, could quickly become as equally threatening to deployed U.S. forces as ballistic missiles.

The committee believes that certain prudent steps should be taken to prepare for the day when U.S. and allied forces could face an enhanced cruise missile threat.

Improving battle management command, control and communications (C3)

The committee endorses the Defense Science Board's call for enhancing existing air defenses through improved connectivity among the military services' varied sensor and "shooter" assets. The committee directs the Secretary of Defense to insure such connectivity among the C3 capabilities of the Navy (Cooperative Engagement Capability), Air Force (Joint Tactical Information Distribution System/Link 16), and Army ("Digitized Battlefield"). The committee requests that the Secretary provide a report to the congressional defense committees on the Department's actions to insure connectivity in this area by May 1, 1996.

Selective upgrade of existing sensors and "shooters"

The committee recommends an increased authorization of $8 million each to the Army, Navy, and Air Force in fiscal year 1996. Details of this recommendation are contained in the classified annex.

Long-range airborne surveillance

Compared to a fixed-wing aircraft option, the committee understands that an aerostat solution may provide more endurance as a surveillance platform and be significantly less costly. The committee encourages the Department of Defense to evaluate the aerostat concept in an Advanced Concept Technology Demonstrator (ACTD) and recommends an additional $9 million in PE 63009A for aerostat ACTD risk reduction to be conducted jointly by the Advanced Research Projects Agency (ARPA) and the Army. The committee directs the Secretary of Defense to report back on progress towards funding such an ACTD by May 1, 1996. Further details of this recommendation are contained in the classified annex.

Continued advanced research and development

The impact of cruise missiles on the battlefield will likely grow with time. While the above efforts are excellent first steps to meet most first and second generation systems requirements and are ideal for regional contingencies, ARPA should continue its fundamental mission of pursuing advanced sensor and system concepts, as well as understanding and countering critical gaps through special studies. The committee recommends an additional $35 million in PE 63226E for these purposes.

Consolidated management

The committee is also aware of organizational problems in the area of cruise missile defense. Various organizations ranging from the military services to ARPA and the Office of the Under Secretary of Defense for Acquisition and Technology to the Ballistic Missile Defense Organization, are pursuing programs and have management responsibility for cruise missile defense. Such diffusion of effort clearly undermines the ability of the Department to achieve timely results in developing systems that are capable of countering the cruise missile threat.

Therefore, the committee directs the Secretary of Defense to review the existing organizational and management structure for cruise missile defense-related activities to achieve program consolidation. The committee urges the Secretary to review the recommendations of the Defense Science Board regarding the appropriate management structure for pursuing an effective cruise missile program for the Department. The Secretary shall report the results of the review to the congressional defense committees not later than February 15, 1996.

Dual-use technology programs

The committee believes dual-use programs can be of great benefit to the core mission of the Department of Defense when they are used to leverage commercial technologies and processes to achieve specific military purposes. However, the committee notes that the fiscal year 1996 request for the Department's dual-use technology programs is approximately 90 percent greater than the fiscal year 1993 request and 12 percent higher than the fiscal year 1995 program. Given the major reductions that have been been made in many core research and development programs of the military services, the committee believes increases of this magnitude are excessive. While the committee supports competitive, cost-shared, partnership programs to the greatest extent possible, the committee has several concerns with regard to dual-use program management within the Department:

(1) In too many cases "dual-use" has been pursued as an end in itself, at the expense of adequately funding national security programs. The Department's fiscal year 1996 request for acquisition programs is $9 billion to $10 billion less than projected for fiscal year 1996 when the Department provided the Congress its fiscal year 1995 budget request. This reduction resulted in a costly, inefficient restructuring of many national security programs. Yet dual-use programs were unaffected by these reductions. In fact, as previously noted, the request for fiscal year 1996 for dual use programs is 90 percent higher than the fiscal year 1993 request for such programs.

(2) The Department's primary program for dual-use projects, PE 63570E, Defense Reinvestment, provides the Congress virtually no before-the-fact oversight of the technologies to be pursued through dual-use efforts;

(3) A significant amount of the funds for these programs has gone toward technology initiatives of marginal or questionable benefit to the military services;

(4) Dual-use programs are executed through a wide variety of partnership structures and solicitation processes, making it difficult for businesses of any size, particularly those that have not routinely worked with the Department of Defense, to understand how to best respond to and apply for participation in dual-use programs;

(5) The scheduling of some dual-use solicitations and evaluations is highly inefficient, particularly the Technology Reinvestment Project (TRP); and

(6) The process fails to provide an architectural road map indicating long-term dual-use technology goals and objectives for the Department.

Therefore, the committee recommends no authorization for Defense Reinvestment for fiscal year 1996. Instead, the committee encourages the Department to:

(1) Support a balanced dual-use program that reflects overall military requirements. Major increases in dual-use program funding at the expense of proper execution of on-going weapons development programs cannot be justified;

(2) Reorient the focus of dual-use programs to primarily address military requirements, rather than as an ancillary benefit;

(3) Use the authorities provided in sections 2371, 2501, and 2511 of title 10, United States Code and the funds authorized for specific technology programs elsewhere in this title to continue meritorious dual-use projects of significant military benefit previously funded through PE 63570E and through the Department's other dual-use technology programs;

(4) Establish a minimal number of partnership and cost-shared processes through which solicitations are made, evaluated and executed so that those businesses seeking to participate in dual-use programs can better focus on and invest in substance rather than process;

(5) Leverage funding available for dual-use programs by making cost sharing an element of solicitation criteria to be considered in making project selections.

(6) Incorporate dual-use solicitations into the normal technology project solicitation process so their evaluation and project implementation can be accommodated without having to divert extraordinary personnel resources for once- or twice-a-year solicitation evaluations; and

(7) Appoint an individual, reporting directly to the Undersecretary of Defense for Acquisition and Technology, to oversee all of the Department's dual-use programs, including the military services, and conduct outreach activities for communicating to the business community those technologies and processes associated with the Department's program.

Federally funded research and development centers (FFRDCs)

The committee is disappointed that the recently released Defense Science Board (DSB) study on the role of FFRDCs failed to offer any innovative alternatives to redefine and rebalance the workload of the centers. The report noted however, that private sector capabilities in systems engineering (SE) and systems integration (SI)

have grown dramatically and that there is general agreement, inside and outside of government, that current private sector capabilities in SE and SI are more than sufficient to meet the Department's needs for these services. Therefore, the committee believes that steps should be taken to phase out a significant portion of FFRDC activity through competitive contracting. The committee recommends a legislative provision (sec. 257) that would require the Department to subject future FFRDC SE and SI work to open competition.

The committee also notes that the Department has decreased funding for FFRDCs that perform studies and analyses less than 5 percent in actual funding since 1991. The committee believes the FFRDC capability must be rebalanced with additional efficiencies achieved in studies and analysis as well as a reevaluation of its FFRDC laboratory functions. The committee recognizes that the Lincoln Laboratory as well as other university affiliated research centers that serve the military under long-term "FFRDC-like" arrangements offer vital bridges from university discovery to potential military products. The committee recommends that this valuable FFRDC function be recognized for its important contribution and be factored into subsequent defense technology planning.

The committee believes additional reductions can and should be made in certain FFRDCs and limits FFRDC funding by the Department in fiscal year 1996 to $1.15 billion, a reduction of $100 million from the projected requirement, of which $9.903 million is for the Lincoln Laboratory research program in PE 62234D.

The committee directs that the Institute for Defense Analysis and the Software Engineering Institute level of funding shall not be reduced from the Department planned fiscal year 1996 activity.

Joint advanced strike technology (JAST) program

The committee is disappointed that the Department has not been able to better define its plan for the future fighter/attack aircraft force structure. Although approximately $3 billion in additional funding is planned for the Joint Advanced Strike Technology (JAST) program through the Future Years' Defense Program (FYDP), there is no apparent willingness or commitment by the Department to examine future needs from a joint, affordable, and integrated warfighting perspective.

The Department formed the JAST office to focus and rationalize the varying tactical aircraft requirements existing at the time among the military services. Yet, since organization of the JAST program, the Department seems willing to permit each military service to seek to justify its future needs without regard to the joint warfighting requirement or the ultimate cost, even though affordability is likely to be a major issue. The Department's senior leadership and the Joint Staff through the Joint Warfighting Capabilities Assessment and Joint Requirements Oversight Council process have failed to provide the JAST program manager the necessary support to make difficult choices. Instead of rationalizing competing requirements, the current approach seeks to accommodate all of the diverse, unrealistic, unaffordable, and unnecessary "requirements" of each of the military services involved.

The committee understands that there are a number of on going studies within the Department that should examine the aggregate or "joint" fighter and attack aircraft requirements for the two major regional contingency scenario. The committee is hopeful that these various assessments will address the committee's issues and concerns noted below. Therefore, the committee recommends a provision (sec. 216) that would direct the Secretary of Defense to address these issues in a report to the congressional defense committees and place a limitation on fiscal year 1996 JAST obligations until the report is provided.

Over $250 million has been appropriated for the JAST-ASTOVL program to date. Another $331.156 million is included in the budget request for fiscal year 1996, with a total of approximately $3 billion included in the FYDP. The stated intent of the program is for the initial JAST candidate aircraft to enter engineering and manufacturing development (EMD) in fiscal year 2000. The committee is concerned about the realism of the development funds requested for the JAST program. For example, the funding projected for the program for the latter years of the FYDP trends downward. This is inconsistent with historical experience for previous aircraft development programs entering EMD.

In preparing the report required by section 216 of the bill, the Department should address the following issues:

(1) What is the total joint requirement, under the two major regional contingency (MRC) scenario, for numbers of tactical combat aircraft and the characteristics required of those aircraft in terms of capabilities, range, and observability/stealthiness; surface and air launched standoff precision guided munitions; cruise missiles; and ground based systems such as Extended Range-Multiple Launch Rocket System and the Army Tactical Missile System (ATACMS) for joint warfighting capability?

(2) What are the MRC warning time assumptions and what is the effect on future tactical fighter/attack aircraft requirements using other warning time assumptions?

(3) What requirements exist for JAST that justify an additional $3 billion development investment over the FYDP that cannot be met by existing or modifications to existing aircraft or by those aircraft in development?

(4) What is the Department's long range plan for rationalization of the current three approaches—STOVL, helicopters, and fixed-wing aircraft—to providing close air support for ground troops?

Once the Department addresses these issues it may be able to address the committee's concerns, including:

(1) The Department appears to be committed to a JAST level-of-effort program without having determined what the manned tactical aircraft component requirement is to meet the total joint warfighting requirement for tactical aircraft, cruise missiles, and air and ground launched standoff precision guided munitions for the deep strike, interdiction, and close air support missions;

(2) The JAST program is pursuing as its first priority the least required warfighting capability: a follow-on close air sup-

port (CAS) aircraft as a replacement for the Marine Corps AV–8 Harrier. As reflected in Desert Storm results and likely future warfighting scenarios, the manned tactical fixed-wing requirement to meet the CAS mission is relatively small. This, combined with the "From the Sea" maritime strategy, which allows the commitment of major maritime-based aviation assets to the land battle, makes even more aircraft available for this mission area. In addition, it does not appear that Marine Corps and Army attack helicopter force structure is being adequately considered. Further, the "Bottom Up Review" conducted by the Department of Defense reflected these considerations, where it excluded the AV–8 in its future tactical aircraft force requirements and planning assumptions.

(3) The Navy canceled the A–12 and later canceled the A/F–X. The Navy currently states the requirement for JAST is to perform as a first-day-survivable (FDS) strike fighter. If there is no need to pursue an A–12 or A/F–X capability now, and if the Navy will do without this capability for 10–15 years, why is the capability required in 2005–2010? How many FDS strike fighters would the Joint Forces Commanders require prior to the achievement of air supremacy in the two MRC scenario?

(4) The Air Force claims it needs an F–16 replacement yet is unable to demonstrate why additional F–16s cannot affordably meet its requirement given the capabilities the F–22, F–117, standoff precision guided munitions, and cruise missiles would provide the Joint Forces Commander.

(5) Warning times assumed in MRC scenarios used to justify "requirements" need to be realistically established.

The committee supports the focus that the JAST program management provides for the advanced technology demonstrations it is conducting and the need to place emphasis on the maturation of propulsion systems. But the committee believes that a number of other initiatives are premature since many relevant questions about what needs to be developed when, have not yet been addressed. The committee also believes that some portions of the development effort duplicate activities in other programs. Accordingly, the committee recommends a reduction in funding from the requested $331.156 million to $280.156 million, a reduction in PE 63800N and PE 63800F of $25.5 million each. The committee recommends the following specific adjustments to the "JAST Program Fiscal Year 1996 Investment Plan": line 21, increase $10 million; line 29, decrease $6 million; line 32–35, decrease $20 million; and line 40, decrease $35 million. The committee supports completion of the current phase of the ASTOVL development more out of concern for the industrial base than as an endorsement of the "requirement" for such an aircraft.

Justification of estimates

The committee has in past years noted the Department's lack of attention to detail and timeliness in providing its annual budget materials to the congressional defense committees. The committee notes that again this year that budget materials were not provided until two-to-three months after the President's budget was presented to the Congress. Once provided, the materials were found to

be less than satisfactory. As an example, a great deal of the data provided in the Air Force RDT&E budget materials was wrong and internally inconsistent. In addition, numerous program element numbers for all of the military services' requests fail to correctly describe the status of specific programs (e.g., the Air Force program element number for the Tri-Service Standoff Attack Missile (TSSAM) reflects the status of TSSAM as having been an operational system). The committee cannot emphasize too strongly to the Department the need to provide accurate and timely justification materials to the Congress if it expects full and favorable consideration of the Department's request.

Manufacturing technology (MANTEC)

The committee is concerned that the military services are not focusing MANTEC research and development on key manufacturing cost drivers in weapon systems. The potential now exists through the use of the available talent pool in industry, academic and government consortia, or through the use of several centers of excellence to address manufacturing applications that could have significant cost reduction impact now and in the future.

The committee directs the Secretary of Defense to place the highest priority of the manufacturing technology program (MANTEC) on funding areas that address near-term manufacturing problems and to maintain a lesser portion of the program aimed toward longer term technologies.

The committee recommends transfer of the MANTEC program from advanced development to production support to accomplish this primary purpose. The committee directs a formal liaison with the Director, Defense Research and Engineering (DDR&E) as the technology coordinator for infusion of advanced technology into the process.

The committee reiterates the importance of industrial participation and competition in awarding grants and contracts. National industrial associations and consortia shall be considered by all services for participation in program activity.

Finally, the committee believes that since the MANTEC program has been significantly reduced in funding over prior years, infrastructure savings (including new facility construction) can be achieved by consolidation of its centers of excellence and re-assigning future work activities within the remaining centers. The committee recommends that 25 percent of the program shall have cost sharing greater than two to one.

The committee recommends the following program adjustments:

PE 63771A—decrease $17.776 million.

PE 78045A—increase $27.776 million ($6 million for composite technology for the instrumented factory for gear development, $4 million for PAN fibers), and $1.5 million of the core program shall be used for industrial—academic partnerships for repair technology development and insertion for rotary winged aircraft.

PE 63771N—decrease $41.251 million.

PE 78011N—increase $51.251 million ($10 million for the Navy to initiate partnerships with industry, government laboratories and other research organizations that will allow the development of

manufacturing technologies which support optoelectronic devices and components).

PE 63771F—decrease $53.332 million.

PE 78011F—increase of $53.332 million.

PE 63771S—decrease $7.007 million.

PE 78011S—increase $17.007 million ($10 million to conduct demonstrations and pre-production development for military sewn products and to continue the machine tool program).

Precision guided munitions

The Department is spending billions of dollars to acquire sophisticated precision guided munitions (PGMs). These weapons are expected to impact future force levels and number of platforms required to defeat battlefield threats.

The General Accounting Office (GAO) recently reviewed all military services PGM programs and determined that the Department has procured or plans to develop and procure 33 types of PGMs. The military services estimate they will have spent about $58.7 billion for these PGMs, $30.4 billion for 19 munition types they now have in limited numbers in the inventory and about $28.3 billion for 14 munition types in development. These figures do not include the yet-to-be-defined program to replace the recently terminated Tri-Service Standoff Attack Missile (TSSAM). In addition, these costs do not include integration into platforms, or the electronic and mechanical interfaces required. The GAO found that:

(1) The military services will have multiple PGM options to counter targets in the same classes (when current inventory deficiencies are corrected and developmental programs are complete);

(2) The military services may have additional opportunities for joint procurement which are not being pursued; and

(3) Acquisition practices are inefficient.

The committee questions: (1) how many PGM types the services need to be effective against different target classes, (2) what quantities are needed, (3) whether joint programs are feasible, and (4) whether PGMs in production and development are still cost effective?

The committee directs the Secretary of Defense to perform an analysis of the full range of PGMs in production and in research, development, test, and evaluation to determine:

(1) The numbers and types of PGMs needed to provide a complementary capability in each target class;

(2) The feasibility of developing and procuring additional munition types jointly;

(3) The feasibility of integrating a given weapon on multiple service platforms; and

(4) The economy and effectiveness of continuing acquisition of munitions that are characterized as "interim" or whose quantity requirements have decreased significantly such that unit costs have increased beyond 50 percent.

The Secretary shall include a section in the report which details the process by which the Department approves the development of new PGMs, avoids service duplication and redundancy, retires less effective systems, establishes out-year cost rationalization within

the total out-year modernization planned funding, and identifies by name and function that person responsible for approving each new PGM permitted to enter the formal acquisition process.

The report shall be provided to the congressional defense committees not later than February 1, 1996.

ARMY RDT&E

OVERVIEW

The budget request for fiscal year 1996 included $4,444.175 million for Army RDT&E. The committee recommends authorization of $4,774.947 million, an increase of $330.772 million, for fiscal year 1996.

The committee recommendations for the fiscal year 1996 Army RDT&E program are identified in the table below. Major changes to the Army request are discussed following the table.

Offset Folios 147 to 149 insert here

ITEMS OF SPECIAL INTEREST

Army modernization shortfalls

Through the course of its evaluation of the proposed Department of the Army budget, the committee has learned of a number of key fiscal year 1996 funding shortfalls that are vital to ensuring future Army readiness. The committee believes these shortfalls could be satisfied by redirecting or postponing longer-range programs to pay for near-term needs and requirements. As an example, the Army advanced concept demonstration for the rapid force projection initiative is assessed to be inadequately planned with reliance on weapons with marginal utility and should be postponed and its planned funding applied to higher priority needs in other Army RDT&E accounts that have been fully certified by the Army as bona fide key modernization shortfalls. Therefore significant reductions to the missile and rocket advanced technology program element (PE 63313A) have been made in order to fund these other program elements within the Army RDT&E account where shortfalls have been identified.

The committee recommends the following funding adjustments:

PE 64741A: +$10 million for tactical operation center.

PE 63313A: +$5 million for Multiple Launch Rocket System (MLRS) low-cost guidance.

PE 65712A: +$1.5 million for joint warfighter interoperability demonstration.

PE 23740A: +$13 million for maneuver control system.

PE 23726A: +$6.2 million for advanced field artillery tactical data system.

PE 64768A: +$7 million for Army tactical missile system/brilliant anti-armor submunition risk reduction.

PE 63778A: +$3.7 million for MLRS improved launch mechanical system.

PE 64804A: +$2 million for 3KW tactical quiet generator.

PE 63001A: +$3.1 million for ammunition logistics packaging, safety and advanced technology.

PE 64201A: +$11 million for prototype Army airborne command and control system for task force XXI.

The committee reduces funding for the rapid force projection initiative in PE 63313A (not including project D496) as a partial offset.

Advanced artillery propellant development

The budget request included $10.846 million in PE 63640A to continue development of an advanced solid propellant system and 52-caliber cannon as a backup for the Crusader liquid propellant (LP) armament system and for potential use in other field artillery systems.

As a hedge against potential failure of LP and to enhance existing systems, the committee recommends an increased authorization of $19.6 million to continue development of the XM297 advanced 52-caliber cannon for Crusader, including integration of a bolt-in/bolt-out gun mount for the M109A6 Palladin and type classification of the advanced solid propellant in standard 39-caliber artillery cannons.

Advanced battery technology

The committee recommends an additional $3 million for non-metallic lithium and low cost reusable alkaline battery development in PE 62705A and $500,000 in PE 62314N for advanced seal delivery vehicle batteries.

Advanced individual weapon anti-armor technology

The budget request included $5.114 million in PE 62623A and $4.487 million in PE 63607A for the Joint Service Small Arms Program. The committee strongly supports the development of technology for advanced individual weapon systems for the 21st Century as outlined in the Joint Services Small Arms Master Plan. The capability for defeating a wide range of armored fighting vehicles and other battlefield targets incorporated in an advanced individual weapon system could significantly increase the combat effectiveness of the individual soldier or marine on the modern battlefield. The committee recommends an increase of $2 million in PE 63607A for the advanced technology demonstration of lightweight, medium-caliber, multi-shot, anti-armor weapon technology, and believes that a successful demonstration could lead to early application of the technology in a next-generation objective individual combat weapon system for the Army and the Marine Corps.

Advanced missile system-heavy (AMS–H)

The budget request included $995,000 for a new anti-tank weapon program in PE 64325A. The committee denies the Army's request for new start funding for yet another tank killer program.

Advanced solid state dye lasers

The committee recommends an additional $4 million in PE 62307A for continued research into advanced solid state dye lasers.

Aircrew protection

The committee recommends an additional $6 million in PE 63801A for advanced common helmet development for helicopter aircrew members.

Armored systems modernization

The committee recommends the following adjustments to the Department's budget request:

PE 64645A/D413: armored gun system, increase $5.36 million.
PE 63649A/DG24: CMS/Grizzly, increase $4.5 million.
PE 64649A/DG25: CMS/Grizzly, increase $9.922 million.
PE 64649A/DC26: CMS/Wolverine, increase $4.231 million.
PE 23735A/D330: ABRAMS tank, increase $1.309 million.

These additions shall be offset by a reduction in the procurement section of this act of $25.322 million from the ABRAMS tank modification line (BLIN #19/FA0770).

Automatic test equipment development

The committee recommends an additional $10 million in PE 64746A for continued development of software to support the integrated family of test equipment (IFTE).

Battlefield combat identification system (BCIS)

The committee is pleased with the Army's successful testing to date of the Battlefield Combat Identification System (BCIS) which is designed to prevent friendly fire casualties through positive electronic interrogation and identification of potential targets as "friend or foe." The committee considers inclusion of BCIS in the upcoming Army Task Force XXI test/demonstration vital to validating the overall effectiveness and future production potential of this critical anti-fratricide system. Further, the committee directs the Army to ensure that a sufficient number of BCIS units are fielded for a realistic test of the system for Task Force XXI and to continue plans to fully equip a contingency force division as soon as soon as practicable.

Battlefield tissue replacement

The committee recommends an additional $5 million in PE 62787A for continuation of the combat care laser-biologic tissue fusion and replacement program.

Biotechnologies

The committee continues to support the research and development efforts of the Departments of Defense and Agriculture conducted by the Army in PE 62720A. The committee expects the Director, Defense Research and Engineering to provide guidance to this important program. In particular, the committee strongly recommends efforts directed at development of advanced materials from renewable resources and the development and demonstration of cost-effective bioremediation technologies for contaminated soil and related resources.

Brilliant antiarmor submunition (BAT)

The committee believes there is benefit to expanding the use of the Department of the Army's BAT submunition into other platforms and carriers. The committee directs the Secretaries of the Air Force and Navy in coordination with the Secretary of the Army to perform a cost and operational effectiveness analysis (COEA) of Air Force and Navy participation in the BAT development program for possible use in fixed wing and cruise missile carriers. The Secretaries shall submit the results of the COEA to the congressional defense committees not later than 120 days after passage of this act.

Comanche helicopter (RAH–66)

The committee agrees with the new philosophy of the RAH–66 Comanche helicopter program which focuses on fielding multiple prototype aircraft for use by regular Army forces in the field to determine the full range of warfighting advantages offered by the system. The committee also believes that both reconnaissance and attack/weapons packages for the Comanche should be field tested as soon as possible in order to fully maximize the system's future combat potential.

However, the committee is concerned over the apparent lack of full support within both the Army and Department of Defense to move more rapidly towards production and integration of the Comanche into the rapidly emerging digitized brigades. The com-

mittee reminds the Department that continual program reduction and restructuring is wasteful and demonstrates the Army's lack of commitment and the Department's lack of leadership in prioritizing and appropriately funding its higher priority modernization programs. These programs, like Comanche, fully employ emerging revolutionary technology, offer decisive force advantages, and drastically reduced operations and maintenance cost. The extended development periods caused by the continual restructuring of the Comanche program inflate development costs, stagnate industrial potential for full scale production, and leave the Army without a vital future combat capability.

The committee remains concerned that, based upon recent events, including the loss of an unarmed, non-stealthy OH–58A scout helicopter over North Korea, the Army requirement for an advanced armed reconnaissance helicopter is more pressing than ever, and serious consideration should be given to accelerating rather than delaying the Army's choice to fulfill this requirement, the RAH–66 Comanche.

The Secretary of Defense is reminded that the Comanche is the Department's only research and development program for helicopters and requires serious and dedicated management attention to ensure its success. The committee considers appropriate future funding, and an elevated Department priority, as essential to integrating this revolutionary weapon system into the modern battlefield as soon as possible.

Further, the committee believes the Comanche should become and remain a prime candidate for any additional modernization funding that is made available to either the Department of Defense or the U.S. Army.

The committee therefore recommends an increase of $100 million in PE 64223A and directs the Secretary of Defense and the Secretary of the Army to immediately reconsider the priority given to the Comanche and to examine alternatives that would provide accelerated outyear funding profiles that challenge the industry to successfully conduct the prototype program and guarantee full scale production prior to 2004.

Ductile iron

The committee recognizes the cost and weight savings of ductile iron and understands the benefits to the Army and the other military services if problems in welding and shaping can be solved. The committee encourages the Secretary of the Army to continue the ductile iron program. The committee also recommends that ductile iron be a part of the Advanced Research Projects Agency's specialty metals program, described in the Defense Agencies' section of this report.

Electric gun technology

The committee continues to support electric gun technology development for potential future weapons applications, but recommends that the effort be re-focused on the most promising concepts. The committee recommends an additional $6 million in PE 62618A, project H–80, to complete data gathering and assessment by the research teams.

Enhanced fiber optic guided missile (EFOG–M)

The committee is concerned that the Army is pursuing a weapon system which provides questionable value and possesses known fiscal risk. The EFOG–M was canceled by the Assistant Secretary of the Army, Research Development and Acquisition because of cost overruns and poor performance. The program was resurrected by proponents in the Army and in the Department in fiscal year 1995.

The committee's primary concern for this program, above its apparent marginal need, is that planned funding for the EFOG–M may not match the development activity and product delivery of 300 missiles and 12 fire units for planned test and evaluation. Therefore, the committee recommends a provision (sec. 215) that would require the Secretary of the Army to certify that a requirement exists for the EFOG–M. The provision also limits the expenditure of funds for the EFOG–M program to that identified in the current program plan only and denies continuation of the program beyond fiscal year 1998 if contract obligations are not met.

Environmental technology

The committee recommends $4 million of the amount requested in PE 62720A for continued support for bioremediation education science and technology with applications only for defense-related environmental problems.

Hardened materials

The committee recommends an additional $4 million in PE 62105A to continue the unfunded portions of the hardened materials program.

Heavy vehicle support

The committee recommends an additional $1.9 million in PE 64622A for water heater/chiller development for the Army's XM1098 water tank semitrailer and an additional $845,000 in PE 64622A for a palletized loading system technology demonstration.

Intelligence fusion analysis demonstration

The budget request included $2.937 million in PE 63745A for the Intelligence Fusion Analysis Demonstration program. The committee recommends an increase of $3 million for development and evaluation in Army Warfighter Experiments and the joint precision strike demonstration program of advanced large screen, automated graphical displays which would provide enhanced situational awareness for tactical commanders.

Joint precision strike demonstration program

The budget request included $34.104 million in PE 63238A for the joint air-land-sea precision strike demonstration (JPSD) program. The committee is encouraged by the progress that the Army has made in addressing key issues for defeating time critical targets at extended ranges and in demonstrating concepts for joint capabilities. The committee strongly supports the objectives of the precision/rapid counter-multiple rocket launcher advanced concept and technology demonstration in the fiscal year 1996 program. The committee believes that in the future; increased participation by

the other military services in the JPSD could capitalize on developments in the Warbreaker program and elsewhere and contribute to the development of joint procedures, tactics, and techniques to increase the effectiveness and capability of fixed wing aircraft and other systems in the attack of time critical targets. To this end, the committee directs that the JPSD program, which has been designated as Army lead, be expanded into a jointly manned program with full participation by all military services. The committee recommends an increase of $4 million and requests a report on the status of implementing this requirement no later than June 30, 1996, and submission by September 30, 1996, of a five-year plan for executing a fully coordinated and jointly manned JPSD program.

Land mine neutralization program

The committee believes there is a need for a central authority to plan, oversee, and coordinate the research, development, and acquisition of the technology applicable to area ordnance clearance. Accordingly, the committee directs the Secretary of Defense to submit a plan to the committee by February 15, 1996, that defines research and development priorities, program management and cooperative activity with international programs. Since the committee intended for the Department to institute a program that would lead to viable systems, the committee recommends continuing the effort in subsequent years. The committee recommends an additional $10 million in PE 63606A.

The Secretary of Defense shall provide an annual status report to the congressional defense committees by June 1, 1996 on the program activity and plans.

Laser radar for obstacle avoidance

The committee supports development of high accuracy laser radar obstacle avoidance system for low-flying helicopters in all-weather, night operations as well as laser warning equipment for combat vehicles. The committee recommends an additional $5 million in PE 63710A for testing and avionics integration for helicopter obstacle avoidance and $3.1 million in PE 64740A to develop laser warning equipment for combat vehicles.

Low cost autonomous attack submunition (LOCAAS)

The committee believes there is cost saving potential in continuing research and advanced development in the Army and Air Force on LOCAAS. The committee recommends $2.5 million in PE 63313A, project D493, in the Army and $2.5 million in PE 63601F in the Air Force.

MK 19 weapon system soft mount

The committee recommends an additional $2.7 million in PE 64802A to complete type classification of a soft mount for the MK19 weapon system initiated by congressional action in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

Objective individual combat weapon (OICW)

The committee supports development of the OICW but is concerned that funds requested for fiscal year 1996 are inadequate to effectively conduct this advanced technology program. The committee encourages the Secretary of the Army to examine the current development strategy for OICW to support the joint small arms master plan and request a reprogramming of funds to adequately carry out the master plan.

Optoelectronics

The committee recognizes the importance of optoelectronics technologies for modernization of its forces. Accordingly, the committee encourages the Army to maintain a strong technology base program that involves and strengthens this sector of the industrial base.

Passive millimeter camera

The committee recommends an additional $6 million in PE 62120A to complete development and field test both the first and second generation modular, concept validation cameras.

Personnel training

The committee recognizes and supports the concept of transitioning technology resulting from DOD funded research for a specific purpose to applications in non-military areas. As an example, the lessons learned in aviation crew coordination training may have possible application to emergency medical team training. The Army is encouraged to investigate the potential for technology transfer in this area in a manner that does not divert defense resources from their principal purpose.

Projectile detection and cueing

The committee supports the projectile detection and cueing program funded for Army evaluation in PE 62308A. The committee directs the Secretary of the Army to make available appropriate funding to support evaluation in the Army's ACT II program and to seek a reprogramming of funds where inadequacies exist.

The committee further directs the Secretary of the Army to report to the congressional defense committees on the results of the projectile detection and cueing phase I demonstration tests together with the Army's planned course of action as a result of the tests. The report shall be provided not later than 120 days after the conclusion of the demonstration tests.

Space applications technology program

The budget request included $16.819 million in PE 63006A for command, control, and communications advanced technology, including $498,000 for the Army's space application technology program. The committee is aware of the program's success in demonstrating global positioning system and Wrasse weather data receivers during Operation Desert Shield/Desert Storm and other space technology applications such as the location of high value targets using hyperspectral sensing techniques, high data rate satellite communications on the move, and down link weather satellite

technology. The committee encourages the Army to consider reprogramming funds to provide additional support for the space applications technology program.

Starstreak air to air evaluation

The committee reiterates and reinforces its desire to evaluate the Starstreak missile on the AH–64 Apache helicopter as authorized in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337). The committee believes the planned United States/United Kingdom evaluation program will provide a cost effective means to prove the feasibility of air-to-air defense capability for the Apache. The committee however directs that the test program include warhead lethality in realistic combat scenarios including incoming, crossing and maneuvering high speed targets in clear and adverse weather. The committee recommends an increase of $6.5 million in PE 63003A for both phases of the program and understands that prior year funding is available to complete this program.

Stinger missile improvements

The committee recommends an additional $9.8 million in PE 23801A for sustaining and accelerating the block 2 Stinger program.

Tactical mobility

The committee notes shortfalls in tactical mobility identified in testimony provided by the Army. The committee recommends an additional $10 million to initiate the development of technologies and concept designs in PE 63003A focused on replacement of the CH–47 heavy lift helicopter.

Weapons and munitions

The committee recommends an additional $1.6 million in PE 64802A to continue development of the 120mm full range practice cartridge XM–931 training round that will lead to a lower cost substitute for standard rounds.

Weapons and munitions advanced technology

The committee recommends an additional $2 million in PE 63004A for completion of the XM–982 155mm projectile development.

NAVY RDT&E

OVERVIEW

The budget request for fiscal year 1996 contained $8,204.530 million for Navy RDT&E. The committee recommends authorization of $8,516.509 million, an increase of $311.979 million, for fiscal year 1996.

The committee recommendations for the fiscal year 1996 Navy RDT&E program are identified in the table below. Major changes to the Navy request are discussed following the table.

Offset Folios 165 to 167 insert here

ITEMS OF SPECIAL INTEREST

Advanced amphibious assault vehicle

The budget request included $32.366 million in PE 63611M for demonstration/validation of the advanced amphibious assault vehicle (AAAV). The committees understands that selection of the appropriate engine for the AAAV is a pacing item in the AAAV program and directs the Secretary of the Navy to ensure that the engine qualification test program previously mandated by the Congress is completed as currently planned. The committee understands that decisions made during final development of the budget request resulted in a slip of approximately 26 months in the initial operating capability of the AAAV and directs the Secretary of the Navy to identify the additional funding required to restore the original schedule with the submission of the fiscal year 1997 budget request. The committee recommends an increase of $6 million to the fiscal year 1996 budget request for engine development and system technical risk reduction.

Advanced submarine technology development

The budget request included $18.392 million in PE 62121N for exploratory development of submarine systems technology and $30.860 million in PE 63561N for advanced submarine system development. Coupled with the reduction in the budget request for the Advanced Research Projects Agency's advanced submarine technology program (PE 63569E) to $7.473 million, the total request for development of advanced submarine technology represents a reduction of almost $57 million from the fiscal year 1995 level. The committee is deeply concerned about the Navy's commitment to the long-term submarine research and development required to assure that current and future submarine designs take advantage of advanced technology. The committee understands that near term requirements for the New Attack Submarine (NAS) have led the Navy to place increased emphasis on the maturation of advanced technologies that could be incorporated in that submarine. Nevertheless, the sharp reduction in funding for advanced submarine technology, particularly at the advanced development level, raises serious concerns about the modular approach to design of the NAS and the Navy's stated intent to incorporate advanced technologies into subsequent hulls of the NAS as the technology is matured.

The committee believes that the overall reduction in submarine research and development funding reflected in the president's budget is inadequate to support the type of long-term research necessary for future submarine design. If this long term investment is not made, the Navy cannot be in a position to assure the availability of advanced technologies for use in a future submarine, or that the next submarine design will be the best and most economical design capable of maintaining the superior technological capability that has characterized the U.S. submarine force. The committee directs the Secretary of Defense to develop a plan for long term submarine research and development aimed at ensuring U.S. technological superiority and report this plan to the congressional

defense committees with the submission of the fiscal year 1997 budget request.

The committee recommends an increase of $10 million in PE 62121N and $20 million in PE 63561N to maintain the Navy's advanced submarine technology program at approximately the fiscal year 1995 level. Of the additional amount provided in PE 62121N, $7 million is to continue the transfer to the Navy of the technology for actively controlling machinery platforms demonstrated in the ARPA Project M.

Advanced tactical air command central

The budget request included $8.349 million in PE 64719M to continue development of the advanced tactical air command central (ATACC) for the Marine Corps. Marked growth in program costs for fiscal year 1996 and succeeding years, changes in the acquisition strategy, and significant revisions in the program schedule lead the committee to question whether the operational requirement is well defined and the system should continue in engineering and manufacturing systems development, or whether a demonstration-validation program is more appropriate. Accordingly, the committee recommends a reduction of $5 million in the budget request and directs that the details of the operational requirement and revised program plan be provided with the fiscal year 1997 budget request.

AEGIS combat systems engineering

The fiscal year 1996 budget request included $90.026 million in PE 64307N for continued development of improvements in the AEGIS combat system, an increase of $25.168 million over that projected for fiscal year 1996 when the fiscal year 1995 budget request was submitted. The committee understands that among the reasons for the increase was the deferred release of $15.8 million in fiscal year 1995 funding. To compensate for the deferral, the Navy increased the budget request and has embarked on a phased strategy for development of the AEGIS baseline 6 which will increase development concurrency and program risk. The committee does not believe that this is a prudent strategy, particularly when considering other ongoing developments to the AEGIS program such as the cooperative engagement capability and Navy theater ballistic missile defense. Accordingly, the committee recommends a reduction of $15.8 million to the budget request.

AH–1W integrated weapons system upgrade

The budget request included $14.908 million in PE 64212N for engineering and manufacturing development of upgrades to the AH–1W Cobra attack helicopter for the Marine Corps. The committee understands that the Marine Corps has decided to suspend development of the integrated weapon system, which is a part of the upgrade, pending a further review of the requirements for the helicopter. Accordingly, the committee recommends a reduction of $11.628 million in the budget request.

Aircrew adaptive automation technology

The budget request included $74.849 million in PE 62233N for exploratory development to support Navy advanced weapon and platform system concepts and needs in the areas of materials, electronics, and computer technology. The committee recommends an increase of $2.7 million to continue development of adaptable automation technology for management of air crew workloads.

Aircrew protective clothing and devices

The budget request included $1.719 million in PE 63216N for demonstration and validation of aircrew protective clothing and devices. The committee recommends an increase of $7.4 million to the budget request to continue development of the advanced integrated life support system and for an advanced technology escape system for aircrews. The committee directs that the Navy provide to the congressional defense committees by March 2, 1996 a report describing the program plan for these two programs and the coordination of each with programs which may be under consideration in the Air Force and the Army.

Air systems advanced technology development

The Advanced Anti-Radiation Guided Missile (AARGM) that evolved from a Small Business Innovative Research program could provide a critical capability to meet Marine Corps suppression of enemy air defense requirements.

The committee directs the Secretary of Defense to proceed with this development program and provides $35 million for fiscal year 1996 in PE 63217N to transition from a "bread board" missile seeker development program to an all-up level missile development program and $10 million in PE 27136F to leverage AARGM to define, design, and build a breadboard seeker, guidance and control unit for broader application of the technology for preemptive suppression of enemy air defenses (SEAD). This latter concept will provide an integrated targeting and weapon delivery system for an end-to-end solution for the SEAD program. The committee directs that use of these funds by the Navy and Air Force be limited to design reviews and support test and evaluation. The committee also encourages the Secretaries of the Navy and Air Force to fund the fiscal year 1997 requirement for these projects.

Aircrew systems development

The budget request included $9.788 in PE 64264N for the aircrew systems development of aviation life support systems. The committee recommends an increase of $7.9 million to transition the Navy's Day/Night/All Weather Helmet Mounted Display to operational evaluation in F/A–18 and AV–8B aircraft; to upgrade current escape systems; and to develop crashworthy troop seats in the H–1, H–3, and H–46 helicopters.

AN/ALR–67(V) Electronic Warfare Program

The committee notes the Department of Defense's clear and concise report related to the soundness of the Navy's AN/ALR–67(V)3 acquisition strategy and the tests to determine the operational effectiveness and suitability of the system. Should the test results re-

main positive, the Department is encouraged to accelerate the acquisition and fielding of the system in order to correct deficiencies in the fleet at the earliest time possible. The Department should examine strategies for achieving economic quantity buys in order to ensure the cost effective acquisition of the AN/ALR–67(V)3.

Anti-submarine warfare program

Recent events detailed in the classified annex raise the committee's concern that the reduction in anti-submarine warfare (ASW) program priority may have gone too far and that the Navy should place renewed emphasis on its ASW program.

Elsewhere in this report, the committee has recommended several measures to improve U.S. ASW capabilities and to place higher priority on the development of advanced submarine technologies for the Navy. The committee directs the Secretary of Defense to assess the current and projected U.S. anti-submarine warfare program and report to the congressional defense committees by July 1, 1996, the long range plan for improvement in U.S. anti-submarine warfare program capabilities against the emerging threat in both littoral and open ocean areas.

AV–8B Harrier weapon system improvements

The budget request included $11.309 million in PE 64214N for integration and testing of weapons and aircraft improvements for the AV–8B Harrier aircraft. The committee understands that the AV–8B production memorandum of understanding between the United States, Spain, and Italy provides for the integration of the Advanced Medium Range Air-to-Air Missile (AMRAAM), that the most cost-effective way to achieve this is the concurrent integration of the AMRAAM and the 1760 data bus, and that a shared funding plan has been developed. Incorporation of the 1760 data bus during remanufacture of the day-only AV–8As to the AV–8B radar configuration would also permit incorporation of the capability for the Joint Stand-off Weapon (JSOW) and Joint Direct Attack Munition (JDAM) systems on the AV–8B at a later date. The committee recommends an increase of $15.6 million to the budget request for the U.S. share of fiscal year 1996 integration costs with the understanding that the Marine Corps will budget for the balance of $11.7 million as a part of the fiscal year 1997 budget request.

BOL chaff evaluation

The committee is advised that the Navy has completed a successful evaluation of BOL chaff as a wing mounted electronic countermeasure on the F/A–18C/D aircraft. The committee encourages the Navy to evaluate the use of BOL chaff on the F/A–18E/F at the appropriate point in the development of that aircraft.

Communications technology

The budget request included $9.229 million in PE 62232N to continue development of key communications technologies for air, ship, and submarine platforms. The committee recommends an increase of $4 million for support of wireless and satellite communications research in the areas of integrated antenna systems, communica-

tions hardware design, communication algorithm development and high-frequency device modeling and measurements.

Cooperative engagement capability

The budget request included $245.620 million in PE 63755N for ship self-defense advanced technology development, including $180.049 million for the cooperative engagement capability (CEC). The budget request is an increase of approximately $78 million over the projected fiscal year 1996 amount contained in the fiscal year 1995 defense budget request and represents a decision on the part of the Department of Defense to accelerate demonstration and fielding of the CEC. The committee is aware of the very positive demonstration of the CEC deployed as a part of the Eisenhower Battle Group in the Atlantic and operational experience gained with the system gained in support of NATO operations in the Adriatic Sea off the former Yugoslavia.

The committee believes strongly that when deployed with the fleet, the CEC must be operationally effective and suitable, must meet the required degree of mission accomplishment when operated by representative personnel in the expected operational environment, and must be supportable in the fleet. Based on a Department of Defense Inspector General report, "Hotline Complaint on Management of the Cooperative Engagement Capability Program," (DOD IG Report No. 95–143), the committee is concerned that the level of developmental testing and independent operational testing required to provide that assurance is not present in the CEC program, and cannot agree to the acceleration of the CEC program until such assurance is present. Therefore, of the fiscal year 1996 funds provided for the CEC program, the committee directs that not more than $102 million may be obligated until the Secretary of Defense notifies the congressional defense committees that the Test and Evaluation Master Plan providing for the performance of a dedicated, independent operational test and evaluation of the CEC program has been approved by the Director, Operational Test and Evaluation.

Cryptologic system trainer

The budget request included $7.005 million in PE 24571N to continue development and evaluation of the Navy's Surface Tactical Team Trainer. The committee recommends an increase of $3 million for integration and evaluation of the cryptologic systems trainer in the Battle Force Tactical Training system and the development of related information warfare/command and control warfare shipboard training systems.

Embedded sensors

The budget request included $74.849 million in PE 62234N for exploratory development in the areas of materials, electronics, and computer technology for support of Navy advanced weapon and platform systems. The committee recommends an increase of $3 million to complete the exploratory development of embedded, remotely queried micro-electromechanical sensors in thick composites suitable for use in submarine, ships, and armored vehicles.

Enhanced modular signal processor

The budget request included $8.342 million in PE 64507N for development and risk mitigation testing of the AN/UYS–2 enhanced modular signal processor (EMSP) and software development, integration, testing, and critical engineering design support in the airborne low-frequency sonar (ALFS), surveillance towed array sensor system (SURTASS), AN/SQQ–89 surface combat system, and AN/BSY–2 submarine combat system. The committee understands that the Navy is considering development of a commercial-off-the-shelf (COTS) variant of the EMSP. If adopted, this action would maximize the benefit received from investment in the development of the AN/UYS–2 and would significantly reduce program life cycle costs. The committee further understands that the Navy is considering accomplishing the development from currently programmed funds and does not require any additional funding in fiscal year 1996 for this purpose. The committee encourages the Navy to identify any additional funds required for the EMSP COTS development in its fiscal year 1997 budget request.

Fixed Distributed System—Deployable (FDS–D)

The budget request included $93.507 million in PE 64784N for the Fixed Distributed Surveillance System. The committee recommends an increase of $10 million to refurbish and extend the capability of the FDS–D prototype and provide an interim deployable undersea surveillance capability until the Advanced Deployable System becomes available.

Flat panel, helmet-mounted display

The budget request included $7.020 million in PE 62122N for exploratory development of air vehicle technology. The committee recommends an increase of $2.5 million to continue development of flat panel, helmet-mounted displays for aircrew helmets.

Geosat follow-on program

Section 258 of the Department of Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) required NASA and the Navy to report their findings regarding Geosat Follow-On (GFO) TOPEX/Poseidon Follow-On (TPFO) convergence issues by February 15, 1995. When the two agencies failed to meet that deadline, it was extended until April 14. Both agencies failed to meet this deadline as well. Although a draft report is in circulation, the report still has not been formally transmitted to the committee. Given the lack of reliable information about convergence and its impact on defense requirements, the committee directs that no DOD funds may be obligated or expended for activities associated with TPFO during fiscal year 1996.

Intercooled recuperated gas turbine

In the budget request, the Department has transferred the program for development of the intercooled recuperated (ICR) gas turbine engine (the engine for the next generation naval surface combatant and for late construction DDG–51) from the Advanced Surface Machinery (ASM) demonstration/validation program to PE 63508N in the technology base. The committee is concerned that

the transfer destroys the relationship between the program for development of the new engine and other elements of the ASM program and raises the issue of whether or not a new, fuel-efficient power plant will ever be developed for the Navy. The committee directs the transfer of $25.558 million requested in PE 63508N for ICR development to PE 63573N to restore the integrity of the ASM program. The committee recommends an increase of $21.5 million to support conduct of ICR engine test at the Navy's land-based test site and directs that the Navy proceed with a second 500 hour engine system test and other testing at the site as projected in the revised ICR development plan.

Joint air-to-surface stand-off missile

The Bottom-Up Review identified advanced precision guided weapons as a key enabler required for U.S. forces to execute the national military strategy. The regional warfighting commanders-in-chief repeatedly endorsed the requirement during their testimony before the committee. Although the Navy and the Air Force are jointly developing the shorter range Joint Direct Attack Munition (JDAM) and Joint Stand-Off Weapon (JSOW), the recent cancellation of the Tri-Service Stand-off Attack Missile (TSSAM) forfeits the major joint program for development of long range, air-delivered stand-off precision guided weapons and severely limits the future capability of U.S. bomber and attack fighter forces for stand-off attack. The committee considers this a critical deficiency that must be addressed immediately by the Department of Defense.

The budget request included $40.517 million in PE 64603N for development of the Stand-off Land Attack Missile—Enhanced Response (SLAM–ER) by the Navy as an interim replacement for the canceled TSSAM. The committee understands that the TSSAM cancellation occurred too late in the budget cycle for the Air Force to address the requirement for a TSSAM replacement in the fiscal year 1996 budget request, but that a proposed joint requirement is under review and that such a program is being considered for fiscal year 1997 as a separate Air Force program.

The committee believes that the Department must establish a joint program in the Navy and the Air Force for development of an interim replacement for the canceled TSSAM at the earliest possible date. In establishing the joint program maximum use should be sought from the lessons learned in the TSSAM program with regard to the joint service operational requirement and the program development plan, including issues relating to low and very low observability/stealth. Performance criteria specified in the operational requirement must be evaluated in terms of the urgency of fielding a near term replacement for TSSAM. In the committee's opinion, development of separate systems by the Navy and the Air Force is probably not the most cost-effective or operationally prudent solution.

The committee is aware that there are a number of candidate weapon system and sub-munition concepts which could contribute to the TSSAM replacement desired by both services. The committee believes that the variety of missile mainframe, components, and sub-munition systems available provides the opportunity to select

the most promising system concepts and then develop and demonstrate such a joint capability on an accelerated basis.

The committee recommends the budget request of $40.517 million for the SLAM–ER program, but directs that of this amount no more than $10 million may be obligated without specific approval by the congressional defense authorizing committees. The committee directs the Secretary of Defense to immediately establish a joint program for accelerated development and evaluation of candidate joint air-to-surface stand-off missile (JASSM) systems as a near-term replacement for TSSAM, and recommends an additional authorization of $37.5 million in PE 64312N and $37.5 million in PE 27160F for this purpose. The committee further directs the Secretary of Defense to report to the congressional defense committees within 60 days of the enactment of this Act, the Department's plan to address near term Navy and Air Force requirements for an interim TSSAM replacement and how the Department plans to satisfy these requirements, and the long term plan for development of a TSSAM replacement that will satisfy the requirements of both military services.

Light strike/light reconnaissance vehicle

The budget request included $3.915 million in PE 26624M for improvements in Marine Corps combat service support equipment and $101.602 million in PE 1160404BB for special operations tactical systems development. The committee recommends an additional $3 million in PE 26624M and $1.5 million in PE 1160404BB to initiate a program for development of a follow-on all-terrain reconnaissance/light strike vehicle, capable of meeting the requirements of the light strike/light reconnaissance mission for the Marine Corps, special operations, and other light forces, and as a replacement of all-terrain reconnaissance/light strike systems now in service in selected special operations capable units.

Light-weight 155mm howitzer

The budget request included $10.9 million in PE 63635M for the light-weight 155mm howitzer, a joint Army-Marine Corps program for development of an advanced, light-weight towed howitzer with increased tactical and strategic mobility as a replacement for the M198 howitzer. The committee recommends an increase of $4.2 million to the budget request to accelerate required technical testing; assess reliability; availability and maintainability; growth potential; and for advanced fire control requirements analysis and development.

Long-range guided projectile technology

In the statement of managers (H.Rept. 103–701) accompanying the conference report on the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337), the conferees endorsed the importance of advanced, long-range precision guided munitions in meeting the requirements for range, accuracy, and payload for Navy surface fire support and Army long-range artillery and expressed the belief that the Army and the Navy should jointly capitalize on the development of technologies for this purpose.

The committee is aware of rapid progress that is being demonstrated in the development of advanced global positioning system/inertial navigation system (GPS/INS) technology in the low cost competent munition and other programs and the promise this technology holds for significant improvements in the accuracy of existing and future gun-fired projectiles, missiles, and rockets. The committee is also aware of the potential for the establishment of a cooperative technology program between Departments of the Army and the Navy for development and demonstration of these technologies at the component and system level and recommends that such a program be established. In order to capitalize on ongoing programs within the Army and the Navy and what the committee believes is an excellent opportunity to accelerate the development and demonstration of these technologies, the committee recommends the following increases in the program elements indicated:

[In millions of dollars]

Army	
PE 62618A increase	1
PE 62624A increase	2
Navy	
PE 62111N increase	2
PE 62131M increase	1
PE 63792N increase	3

Low-low frequency acoustics (LLFA)

The Congress has supported the assessment of LLFA technology for the detection of submarines operating in both open ocean and littoral regions. The committee understands that of the funds authorized and appropriated in fiscal years 1994 and 1995 for the LLFA technology program, approximately $30 million remain available and are sufficient to continue the program through fiscal year 1996. The committee also understands that the fiscal year 1996 program will focus on issues raised relative to the concept of operations, technical performance, command and control, environmental considerations, and transition of the technology to existing fleet platforms. Pending the results of these efforts, the committee defers consideration of additional funding for LLFA technology program until the fiscal year 1997 budget request.

Maritime avionics subsystems and technology program

The budget request did not include specific funding for the maritime avionics subsystems and technology (MAST) program, a fiscal year 1995 new start, which focuses on the development of scaleable, open, fault-tolerant and common avionics architectures. The committee encourages the Navy and the Air Force to pursue the technology objectives of the MAST program under their respective avionics technology development programs (PE 62122N, PE 62204F, and PE 63253F) and under the Joint Advanced Strike Technology (JAST) program (PE 63800N and PE 63800F), and to consider requirements for additional funding for the MAST program as a part of the fiscal year 1997 budget request.

Medium tactical vehicle remanufacture

The budget request included $3.915 million in PE 26624M for the Marine Corps's Medium Tactical Vehicle Remanufacture (MTVR) program. The program will provide multi-purpose medium tactical trucks capable of meeting the logistical and tactical requirements of Marine forces and will replace the current medium tactical vehicle fleet which reaches its maximum life beginning in fiscal year 2001. The committee understands that the program will also be coordinated with the Army's plans for development of a five-ton truck remanufacture program. The committee recommends an increase of $9.4 million for evaluation of additional MTVR program variants for potential use by the Marine Corps and the Army.

Mine counter-measures program

The budget request included a total of approximately $191 million for the Navy's mine counter-measures program, an increase of approximately $51 million above that requested in fiscal year 1995. The committee notes that the Joint Countermine advanced concept technology demonstration will integrate Army, Navy, and Marine Corps technology developments and fielded systems in an evaluation of the capability for conducting seamless amphibious MCM operations from the sea to the land. The committee expresses its strong support for this demonstration and for the maintenance of a robust MCM acquisition program. The Navy must continue to place a high priority on the MCM program and ensure the development and fielding of enhanced MCM systems at the earliest possible date.

MK 66 rocket motor improvements

The committee remains concerned about the shipboard safety of the current inventory of MK 66 rocket motors. Although the Army is the lead service for 2.75 inch rockets, it has placed insufficient priority on providing the military services with insensitive munition (IM) compatible rocket motors. Accordingly, the committee recommends a total increase of $3 million in PE 25601N, project W2211, $1.5 million to shorten the development time of IM motors, and $1.5 million for IM upgrades to existing 2.75 warheads that are compatible among all military services to provide earlier "system level" safety compliance.

Mobile off-shore base (MOBS)

The budget request includes $14.743 million in PE 63238N for engineering studies of the mobile off-shore base (MOBS) concept. MOBS would be a floating island composed of six aircraft carrier sized modules and capable of storing an armored division's equipment set, which could be moved to the potential site of a crisis to provide an off-shore, prepositioned storage site in areas where the United States does not have land basing rights. Approximately $35 million has been provided to date for investigation of the MOBS concept. The next potential step being considered in the MOBS program is an advanced concept technology demonstration that could total $700 million. The potential cost of a single MOBS system has been estimated at approximately $2 billion.

In the statement of managers (H. Rept. 103–701) accompanying the conference report on S. 2182, the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337), the conferees directed that no further funds beyond fiscal year 1995 could be expended for either the MOBS project or the Landing Ship Quay/Causeway (LSQ/C) until the Joint Requirements Oversight Council validated the operational requirement for MOBS, the Defense Science Board had reviewed the program for technological feasibility, and the Secretary of Defense had certified that a funded program had been established for MOBS. The committee notes that the Department has failed to comply with this guidance. Accordingly, the committee directs that fiscal year 1996 funds which are authorized and appropriated for MOBS or for LSQ/C may not be obligated until the Department provides the reports and certification previously directed by the Congress.

Molecular design research

The committee recommends an additional $6 million in PE 61153N for continuation of the molecular design program initiated in fiscal year 1994 and urges the Secretary of the Navy to include sustainment of this critical research activity, until concluded, in subsequent annual requests.

Naval surface fire support

During its review of the budget request for fiscal year 1996, the committee was briefed on a revised naval surface fire support (NSFS) program, which focuses on near term improvements to NSFS systems: demonstration and development of a long range guided projectile which would incorporate advanced, low cost global positioning system/inertial navigation system (GPS/INS) guidance technology; improvements in the existing Mk 45 5-inch naval gun; and demonstration of the Army's tactical missile system (ATACMS) and other missile systems for NSFS applications.

The committee was disappointed to learn that funding for the NSFS program was sharply reduced during the Navy's budget formulation process, understands that the revised near-term program is underfunded by over $160 million, and that far-term requirements for advanced NSFS weapon systems have been addressed inadequately, if at all.

As noted elsewhere in this report, the committee has recommended increases to the Army, Navy, and Marine Corps technology base to accelerate the development and demonstration of GPS/INS technology for long-range guided projectiles and for current munitions. The committee recommends an increase of $25 million in PE 63795N and notes the need for the Navy to put increased emphasis on satisfying long term requirements for advanced gun systems in addition to the near term focus on modification of the Mark 45 five inch gun. The committee understands that the overall program shortfall will be addressed by the Department of the Navy during its Program Review 97 process.

Non-acoustic antisubmarine warfare program

The budget request included $25.923 million in PE 63714D for the advanced sensor applications program in support of the Depart-

ment of Defense program in non-acoustic anti-submarine warfare (NAASW) technology. The committee has repeatedly asserted and supported the need for two viable, independent, but coordinated NAASW programs, one in the Navy and one in the Office of the Secretary of Defense (OSD), which complemented one another and which shared information on program plans and research results. The committee notes, however, that no funds were requested for the Navy's NAASW program, PE 63528N, in the fiscal year 1996 budget request. As discussed in the classified annex, the committee strongly believes that the Navy's shift from open ocean to littoral operations and the potential threat posed by submarine operations in the shallower seas of the world's littoral regions places a renewed emphasis on the need for both the Navy and the OSD NAASW programs. The committee recommends an authorization of $23.2 million in PE 63528N to reestablish the Navy's NAASW program as a separate program on par with the OSD advanced sensor applications program.

P–3 sensor integration

The budget request of $1.945 million in PE 64221N for the P–3 modernization program represents a reduction of $12 million from that projected for fiscal year 1996 in the fiscal year 1995 budget request. This redirection results in a program cost increase and a delay of three years in the initial operational capability for integration of Improved Extended Echo Ranging (IEER) in the P–3C maritime patrol aircraft. Coupled with the anti-submarine warfare improvement program (AIP) and the P–3 Update III improvements to active and reserve maritime patrol aircraft (MPA), these enhanced capabilities would mitigate the shortfall in the Navy's ability to meet regional warfighting MPA requirements, resulting from the planned reduction in the number of active and reserve MPA squadrons, and would provide an enhanced capability for Anti Submarine Warfare (ASW) operations in littoral regions. Accordingly, the committee recommends an increase of $12 million for the P–3 sensor integration program to restore the schedule for integration of IEER and AIP capabilities and $3 million for upgrade of P–3 stores management to permit integration of advanced weapon system. The committee expects the Navy to include the increased funding necessary to complete these efforts in future budget submissions, and to prove sufficient quantities of the AIP and update III kits to appropriately outfit the active and reserve MPA force.

Polar Ozone Aerosol Monitor III

Polar Ozone Aerosol Monitor (POAM) III continues a program for measurement and monitoring of the earth's polar atmosphere. For fiscal year 1994, the Congress provided $5 million to begin fabrication of the POAM III payload and interface and integration of the payload with the SPOT 4 spacecraft. The committee recommends an increase of $5 million in PE 62435N to complete engineering, integration and test of the POAM III payload on the SPOT 4, leading to system launch in 1997.

Power control electronics

The committee recommends an additional $6 million in PE 62121N for power electronics building block (PE2B) development based on metal oxide semiconductor (MOS) control thyristors for high speed switching of high power systems. The committee recommends academic participation to ensure that the wide range of advanced technology required for the PE2B development is assured.

Rapid acquisition of manufactured parts

The budget request included $12 million for the rapid acquisition of manufactured parts (RAMP) program, $2 million in PE 63712N and $10 million in Navy operations and maintenance. The RAMP program continues to demonstrate and validate flexible manufacturing technology that provides all of the military services required out of production parts at greatly reduced leadtime to deliveries. The committee recommends an additional $12 million in PE 63712N to further the Department's strategy of rapidly transitioning this capability to the commercial sector.

Remote controlled minehunting systems

The budget request included $7.605 million in PE 63502N for development and demonstration of improvements in minehunting sonars and remotely controlled minehunting systems. The committee is aware of the mine detection and location capability demonstrated by the remote minehunting operational prototype (RMOP) during a recent exercise and recommends an increase of $1.65 million to accelerate the RMOP development program and provide an interim operational capability to the fleet.

S–3B Project Gray Wolf

Project Gray Wolf is a proof-of-concept demonstration of the ability of an S–3B aircraft equipped with a multi-mode synthetic aperture radar to provide real time stand-off surveillance, targeting, and strike support for littoral operations. The committee is aware of the success that has been achieved in limited demonstration of the system's capability in fleet exercises and in the "Roving Sands" experiment at White Sands Missile Range. The committee recommends an increase of $15 million in PE 64217N for continued evaluation of the system and potential establishment of advanced concept technology demonstration for the system.

Safety and survivability enhancements

The Secretary of the Navy's Office of Safety and Survivability (OSS) non-developmental item (NDI) program was begun to permit procurement of limited numbers of off-the-shelf NDI items for operational assessment. This program has yielded significant savings and provided life saving equipment for the fleet much faster than would have otherwise been the case. Further, the Advanced Research and Projects Agency (ARPA) has identified high leverage technologies for fire fighting and personnel protection. Accordingly, the committee recommends an additional $2 million in PE 65864N for the OSS to supplement on-going operational assessments of NDI and $2 million in PE 63226E for the ARPA program. The com-

mittee also strongly encourages the Departments of the Army and Air Force to establish similar offices to pursue NDI programs to address operational safety requirements.

Sensor integration and decision support systems

The budget request included $1.074 million in PE 63707N for air human factors engineering. The committee recommends an increase of $1.5 million to the budget request for development and evaluation of intelligent multi-source, multi-platform sensor integration and cockpit decision support systems.

Ship self-defense program

The budget request included $165.997 million in PE 64755N for the ship self defense program. The defense authorizing committees have strongly supported the program and repeatedly emphasized the need for both ship self defense and the cooperative engagement capability program to be managed as major defense acquisitions with program baselines established for each class of ship and for stable and realistic funding to be provided by the Navy (H. Rept. 103–200 and H. Rept. 103–357). The committee notes that it has yet to receive any information in its annual review of the ship self defense program that provides a performance and management baseline against which program progress can be measured.

The fiscal year 1996 budget did not include funding to continue development of either the IRST system or the "Nulka" decoy, despite the apparently high priority given to these programs by the Navy in the past. The committee is concerned that the lack of an analytical rationale for the deletion of these programs, despite their previous support by the Navy leadership, raises further questions about the existence of program management baselines in the ship self defense program.

The committee directs the Secretary of the Navy to provide to the congressional defense committees as a part of the annual update of the "Ship Anti-Air Warfare (AAW) Defense Report," an assessment of progress in establishing program baselines for the ship self defense program and the degree to which these baselines are being met.

SSBN security and survivability program

The budget request of $25.078 million in PE 11224N represents a reduction of $4.7 million from the SSBN security and survivability program from that was projected for fiscal year 1996 in the fiscal year 1995 defense budget request and a reduction of over $50 million from the fiscal year 1993 program. Program reductions have forced cancellation of major experiments and evaluation of anti-submarine warfare technologies that could pose a threat to SSBN security. The committee recommends an increase of $9.5 million to the budget request and directs the Secretary of the Navy to provide to the congressional defense committees within 60 days of the enactment of this Act with an assessment of the potential threat to the U.S. SSBN force and analysis of the required SSBN security program to counter that threat.

Submarine combat system

The budget request included $43.302 million in PE 64524N for development of the AN/BSY–2 submarine combat system. The committee recommends a reduction of $6.151 million, the amount requested for delivery of the BSY–2 system for the SSN–23.

Submarine tactical warfare system

The budget request included $38.479 million in PE 64562N for development of improvements in submarine tactical warfare control systems. The request represents an increase of $17.992 million over that projected for the fiscal year 1996 program in the fiscal year 1995 budget request. Based upon its review of the program, the committee does not understand the reason for the growth in the program and recommends a reduction of $17.992 million.

Telemedicine

The committee commends the Navy for its efforts to incorporate asyncronous transfer mode (ATM) telemedicine technology into its medical program to deliver better health care at an affordable cost to its military personnel. The committee encourages the Navy to make use of commercially available ATM telemedicine technology to provide this capability to the maximum number of medical sites when it can be demonstrated that cost effective benefits can be achieved. The Navy will ensure that all ATM telemedicine research and development is coordinated with the ARPA program.

AIR FORCE RDT&E

OVERVIEW

The budget request for fiscal year 1996 contained $12,598.439 million for Air Force RDT&E. The committee recommends authorization of $13,184.102 million, an increase of $585.663 million, for fiscal year 1996.

The committee recommendations for the fiscal year 1996 Air Force RDT&E program are identified in the table below. Major changes to the Air Force request are discussed following the table.

Offset Folios 193 to 195 insert here

ITEMS OF SPECIAL INTEREST

Adaptive optics

The committee recommends an additional $5 million in PE 61102F for adaptive optics research.

Aerospace propulsion

The committee recognizes the promising results demonstrated in on-going research on thermally stable jet fuels derived from carbonized phyto-feedstocks which permit higher engine operating temperatures without forming damaging carbon deposits, while reducing engine stress and improving engine reliability. Accordingly, the committee recommends an additional $3 million in PE 62203F to further this effort on thermally stable jet fuels.

Aircraft ejection seats

The committee is concerned that inadequate emphasis is being placed on aircrew protection for light-weight crew members and for ejections at higher air speeds. The committee is also concerned about the sustainment of the U.S. aircraft ejection seat industrial base during this period of virtually no aircraft procurement.

The committee therefore provides an additional $3 million in PE 63231F and directs the Air Force to conduct tests on existing Navy, USMC, and Air Force front-line trainer and tactical aircraft ejection seats for the purpose of verifying their predicted performance and identifying problems and required corrective action. Testing should be conducted at the most economical and readily available government or commercial test facility. In conducting these tests, high priority shall be given to the sustainment of the U.S. ejection seat industrial base.

Testing should be completed prior to October 1, 1996 with a report being provided to the congressional defense committees no later than March 1, 1997.

B–1B bomber

The budget request contained $173.8 million in PE 64226F for research and development of the B–1B bomber. The committee continues to strongly support a modern, capable long-range bomber force, and recognizes that the B–1B will serve as the workhorse of such a force well into the 21st century. In order to enhance the warfighting capabilities of the B–1B, the committee recommends an additional $21 million to initiate a B–1B "Virtual Umbilical" program to provide an interim, near-precision munitions capability using existing Mark 82 bombs.

Command, control, and communications technology

The budget request included $98.477 million in PE 62702F for exploratory development of new concepts, feasibility demonstrations, and advanced technology for Air Force command, control, and communications. The committee recommends a reduction of $5 million to the budget request, and strongly recommends that the Air Force put increased emphasis on the development of information technologies for real-time battle management and command

and control for time-critical air operations in support of the joint force commander.

Computer security

The committee recommends an additional $3 million in PE 62702F to evaluate voice recognition security systems to enhance the security of the Department's command and control system. The technology should be user-friendly, inexpensive, tolerant to environmental changes, provide a high degree of accuracy, and use commercial standards.

Intercontinental ballistic missile (ICBM) demonstration/validation

The budget request included $20.265 million in PE 63851F for projects designed to address concerns identified in the Nuclear Posture Review (NPR) and to study means to implement arms control provisions. However, the request for ICBM Command Control, project 1024, did not include pre-milestone 0 study funds for the command signal decoder/missile or for the modified miniature receive terminal for launch control centers, as directed by the NPR. The committee recommends an additional $2 million to begin these two studies.

The request for ICBM Reentry Vehicle Applications, project 1022, did not include milestone 0 study funds to complete the acquisition phase 0 studies necessary for the safety enhanced reentry vehicle effort. The committee directs that these studies be completed expeditiously and strongly urges the Secretary of Defense to promptly decide to equip some or all of the Minuteman III force with Mark 21 reentry vehicles. The committee recommends an additional $2.2 million to complete the safety enhanced reentry vehicle phase 0 efforts and documentation.

The request for ICBM Guidance Applications, project 1020, did not include pre-milestone 0 study funds for inertial measurement modifications. The committee recommends the addition of $1 million to complete these studies and initiate acquisition phase 0 studies. The committee also recommends the addition of $9.3 million to conduct missile guidance technology experiments.

The committee is concerned that pre-milestone 0 and acquisition phase 0 studies are not being adequately planned and funded. This could result in the inappropriate and unauthorized use of funds to conduct the necessary studies. The committee directs the Secretary of the Air Force to submit a report to the congressional defense committees identifying all pre-milestone 1 ICBM acquisition programs currently funded or planned to begin by 2001. The report should identify the effort by name, list all approved requirements and acquisition documents, identify all planned requirements and acquisition documents for a milestone 1 acquisition decision, and provide the office of primary responsibility, estimated cost, and estimated completion dates for all documentation necessary for the milestone 1 decision. The report shall be due not later than February 1, 1996.

Intercontinental ballistic missile (ICBM) engineering and manufacturing development

The budget request included $192.719 million in PE 64851F to complete the Rapid Execution and Combat Targeting Program and to continue the Propulsion and Guidance Replacement Programs. However, the Guidance Replacement Program request fails to fund the initial design and test of the capability to integrate the Mark 21 warhead on the new Minuteman guidance set. In a March 23, 1995 report to Congress, the Under Secretary of Defense for Acquisition and Technology wrote, "The use of Mark 21 on Minuteman III is feasible and operationally effective, and it would be fully compliant with arms control treaties and initiatives." The committee recommends an additional $8 million to fund the initial design and test of the capability to integrate the Mark 21 warhead on the new guidance set.

Low-cost expendable launch vehicles

The committee believes technologies being developed by small expendable launch vehicle companies hold promise for low-cost launch of small commercial payloads and military tactical satellites. The committee recommends $7.5 million in PE 63401F, to be used only for evaluation of low cost expendable launch vehicle concept hardware.

NATO air-ground surveillance system

NATO recently established an air-ground surveillance office to evaluate potential candidates to provide the alliance an airborne ground surveillance capability to complement the NATO Airborne Warning and Control System (AWACS). The committee recommends an additional $14 million in PE 64770F to support the U.S. contingent in the NATO office.

National polar-orbitting operational environmental satellite system

The budget request included $23.9 million in PE 63434F for the National Polar-orbitting Operational Environmental Satellite System (NPOESS). Based on a slower than expected start-up of the program office and a delay in the planned dates of the demonstration and validation phase of NPOESS, funding is reduced by $5 million.

Range tracking and safety

The committee recommends an additional $5.7 million in PE 63311F for suborbital flight testing of Minuteman class range tracking and safety equipment based on existing global positioning system equipment developments.

Reusable launch vehicles

The committee is surprised to note that given the administration's support for dual-use technologies, the Department has failed to adequately support the potential "triple-use" benefit of reusable launch vehicles to the military, civil, and commercial space launch capability and associated sectors of the U.S. industrial base. The committee supports a NASA-DOD-industry team effort for a reus-

able launch vehicle program by recommending an additional $100 million in PE 63401F for fiscal year 1996.

Robotics corrosion inspection system

The committee understands that there are technologies available for dual-use, non-contact robotic corrosion inspection of aircraft that could save the Department hundreds of millions of dollars and reduce environmental problems associated with current inspection procedures. The committee recommends an additional $8 million in PE 62102F to conduct a competitive program to demonstrate the feasibility of non-contact robotic aircraft inspection for the detection of hidden corrosion and metal fatigue. The objective is to demonstrate the feasibility to reduce cargo and fighter aircraft inspection and repair costs by 25 percent annually. The Air Force shall coordinate this effort with the other miliary services, direct Air Combat Command to conduct the program, consider dual-use and private-government cost sharing in making a competitive selection and use commercial business practices in the conduct of this demonstration.

Rocket propulsion technology

The budget request included $47.531 million for rocket propulsion technology in support of the Integrated High Payoff Rocket Technology Initiative Program. The committee recommends an additional $13 million to be authorized as follows: $6 million for PE 62601F, project 1011; $5 million for PE 63302F, project 4373; and $2 million for PE 62111N. This initiative would involve the Department of Defense, NASA, and the space launch industry in joint, cost shared, coordinated research and development to meet national requirements for rocket propulsion technology. The additional authorization shall only be used for direct support costs of these technology projects.

Space-based infrared system

The budget request included $130.744 million in PE 63441F for Space-Based Infrared System (SBIRS) demonstration/validation, and $152.219 million in PE 64441F for SBIRS High Element engineering and manufacturing development (EMD).

The committee reaffirms its strong support for fielding an improved capability to provide the nation's political and military leaders with timely and effective missile warning information. The committee recommends several actions intended to accelerate the Department's plans for fielding such a system. With respect to PE 63441F:

(1) $249.8 million is recommended for the Space and Missile Tracking System (SMTS), an increase of $135 million, and $15.9 million, the requested amount, is recommended for the "Cobra Brass" space experiment;

(2) the schedule for launching the SMTS flight demonstration satellites should be accelerated as much as practical;

(3) deployment of SMTS operational satellites shall begin not later than the fourth quarter of fiscal year 2003; and

(4) a long-wave infrared (LWIR) sensor shall be tested on at least one of the two flight demonstration satellites.

In PE 64441F, $9.4 million is recommended for the Miniature Sensor Technology Integration and $152.8 million, an increase of $10 million, for the SBIRS High Element EMD. The committee encourages the Department, in light of efforts to accelerate SMTS, to review the appropriate mix of capabilities between the high and low earth orbit components of SBIRS and to communicate the results of this analysis to the congressional defense committees by no later than September 1, 1995.

The committee commends the Air Force for adopting innovative acquisition streamlining measures for the SBIRS program, and urges that these processes and procedures remain in effect for the duration of the program.

Ultra high frequency satellite communications

The budget request included $15.6 million in PE 33606F for engineering and manufacturing development of the Ultra High Frequency (UHF) Satellite Communications (SATCOM) program. Based on a reduction in the number of contracts for the development of the network control stations from two to one, funding is reduced by $2.5 million.

DEFENSE AGENCIES

OVERVIEW

The budget request for fiscal year 1996 contained $9,084.809 million for Defense Agencies RDT&E. The committee recommends authorization of $9,548.986 million, an increase of $464.177 million, for fiscal year 1996.

The committee recommendations for the fiscal year 1996 Defense Agencies RDT&E program are identified in the table below. Major changes to the Defense Agencies request are discussed following the table.

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OVERVIEW OF BALLISTIC MISSILE DEFENSE PROGRAMS

The budget request contained $2,442.2 million in research, development, test, and evaluation, $453.7 million for procurement, and $17.009 million for military construction, for a total budget request of $2,912.9 million for ballistic missile defense (BMD).

The proliferation of ballistic missiles and weapons of mass destruction poses a significant threat to the United States, U.S. military forces, and U.S. global interests. The committee is concerned, however, that current Department of Defense policies and programs are not aggressive enough in responding to this threat.

For example, although the Secretary of Defense's February 1995 "Annual Report to the President and the Congress" noted that "ballistic missiles are clearly becoming a common battlefield weapon," the President's budget request for theater missile defense (TMD) is approximately thirty percent less than spending levels recommended by the previous Administration. As a result, several of the most promising TMD concepts, such as the Navy's "Upper Tier" program and the Army's Theater High Altitude Area Defense (THAAD) system, have been delayed.

The Administration's program for national missile defense—a defense of the American homeland—is even more worrisome. There is currently no commitment to deploy a national missile defense. In fact, the Department presently plans to spend over eighty percent less for national missile defense programs than the previous Administration—approximately $500 million per year over the next five years.

The Administration's decision to abandon plans to deploy a national missile defense is particularly disturbing in light of the range of present and potential missile threats to the United States. Both Russia and China today maintain and are aggressively modernizing nuclear forces capable of destroying American cities. For Russia this includes production of follow-ons to the SS–25 intercontinental ballistic missile (ICBM) and SS–N–20 sea-launched ballistic missile (SLBM). China is producing two types of long-range ICBMs with ranges of approximately 7,000 kilometers and 10,000 kilometers respectively, as well as other strategic systems. Moreover, various "rogue regimes" are seeking a capability to attack the United States using ballistic missiles.

According to senior U.S. intelligence officials, it may not take long for an outlaw regime to acquire such a capability. For instance, on January 10, 1995, the Defense Intelligence Agency Director, Lieutenant General James Clapper, testified that North Korean missiles now under development probably have sufficient range to reach targets in Alaska. On January 18, 1995, the then-Acting Director of Central Intelligence, Admiral William Studeman, testified that the proliferation of technology will lead to missiles "that can reach the United States toward the end of this decade and the beginning of [the next] century. "Former Director of Central Intelligence R. James Woolsey has testified that the covert purchase of missiles would provide a "shortcut approach" that may lessen the time it takes to place the United States directly at risk. In addition, he stated that "the acquisition of key production tech-

nologies and technical expertise would speed up ICBM development.''

Today, more than 25 countries have or are developing weapons of mass destruction, including nuclear, chemical, and biological weapons. More than 15 countries now possess ballistic missiles, which can be used to deliver these weapons to their targets hundreds or thousands of miles away.

Because of their perceived military and political importance, ballistic missiles are also becoming a valuable export commodity. It is reasonable to assume that the desire to acquire ballistic missiles has been enhanced by the inability to defend against them. Effective theater and national ballistic missile defenses can raise the cost and lower the attraction of ballistic missiles to a would-be proliferant by reducing their effectiveness. Missile defenses also provide a hedge against the use of such weapons in the event traditional nonproliferation efforts (e.g., arms control, export controls, sanctions) fail to prevent proliferation. By providing an ''insurance policy'' against the use of these weapons, missile defenses could dampen incentives to act (or react) precipitously in a crisis and could promote the formation of regional defensive alliances that reduce the risk that individual member states will be ''held hostage'' to the threat of attack.

In addition, the committee is concerned about the possible indigenous development or sale to third parties of space launch vehicles, which can be rapidly converted with little or no warning and minor modifications to ICBMs capable of delivering nuclear, chemical or biological warheads against American cities. According to a 1992 statement by Lawrence Gershwin, CIA national intelligence officer for strategic programs, ''India, Israel, and Japan have developed space launch vehicles that, if converted to surface-to-surface missiles, are capable of reaching targets in the United States.''

Any booster with the capability to lift a payload into orbit can also be used to deliver weapons of mass destruction on targets thousands of miles away. Through the purchase of space launch vehicles, a nation can acquire a threatening ballistic missile capability under the guise of peaceful activity. In this regard, the committee notes with concern continuing reports that Russia is attempting to market its ''Start-1'' and ''Start-2'' systems, which are modified versions of the SS–25 ICBM, as space launch vehicles. The purchase of space launch vehicles is one route by which proliferant states may seek to circumvent existing controls on the transfer of missile technology.

Given the growing ballistic missile threat, the committee is convinced that deployment of affordable, effective theater and national missile defense systems is an essential objective of a defense modernization program that adequately supports the requirements of the national military strategy. The committee's views on missile defense as an element of broader U.S. counterproliferation policy, and ballistic missile defense and strategic stability are contained in section 236 of the bill.

In response to the concerns outlined above, the committee recommends several provisions, as well as the following guidance, to strengthen the U.S. response to the missile proliferation threat.

Funding

The committee supports increased investment in BMD in order to deal with present and postulated ballistic missile threats in a more timely manner. Specifically, the committee recommends a total of $3,540.9 million for activities of the Ballistic Missile Defense Organization (BMDO) in fiscal year 1996, an increase of $628 million over the request of $2,912.9 million.

Missile defense and acquisition reform

In order to ensure the timely and affordable development and deployment of effective U.S. missile defense capabilities, the committee directs the Secretary to implement streamlined acquisition processes and procedures for the following programs and projects: National Missile Defense (NMD), THAAD, Navy Upper and Lower Tier systems, and Patriot. The Under Secretary of Defense for Acquisition and Technology is directed to prepare and submit a report to the congressional defense committees describing the steps taken to meet this requirement, along with the estimated cost savings and schedule accelerations that would result from these measures. The report shall be due not later than February 1, 1996.

Theater missile defense

The committee supports accelerating development and deployment of advanced TMD systems. For this reason, the committee recommends a provision (sec. 232) that would establish policy for the deployment of advanced TMD systems.

The committee is concerned about the long-term affordability of U.S. TMD programs and projects. Therefore, the committee directs the Secretary of Defense and Chairman of the Joint Chiefs of Staff to jointly review U.S. TMD plans, programs, and budgets, and to report to the Congressional defense committees by March 15, 1996, on the long-term affordability and need for the various TMD programs currently being pursued. In particular, the Secretary and Chairman should provide a prioritized listing of TMD systems and should make recommendations on down-selecting among competing TMD systems. Additional TMD program-specific guidance is provided below.

Thaad

The committee notes and reaffirms the previous Congressional endorsement of the User Operational Evaluation System (UOES) concept, and urges that a THAAD UOES system be delivered no later than mid-FY 1998. In this regard, the committee endorses a decision to acquire 40 THAAD UOES demonstration/validation (dem/val) prototype missiles. The committee urges the Director of the BMDO to review the THAAD acquisition plan to ensure a smooth transition from the dem/val phase of development to the engineering and manufacturing development (EMD) and low-rate initial production (LRIP) phases. This review should also consider the merits of producing additional missiles for contingency use before the year 2000 and of initiating LRIP concurrently with the testing of EMD missiles once initial tests have verified that performance has not been degraded by any EMD design changes. The Director of BMDO is directed to prepare and submit a report to the

committee not later than March 15, 1996, on the results of his review. Finally, the committee expects the Director of BMDO to initiate development of all battle management software for the THAAD system, including that necessary to receive cuing information from external sensors.

Navy upper tier

The committee urges prompt completion of the Upper Tier cost and operational effectiveness analysis (COEA), but emphasizes that a fair and impartial assessment is imperative. The committee will closely scrutinize the COEA to ensure that all relevant technological approaches were considered.

Navy lower tier

Given the importance of Navy Lower Tier to the Navy's ability to defend the fleet against cruise missile attacks, the committee directs the Secretary to review the management and funding responsibilities for Navy Lower Tier, including the possibility of transferring such responsibilities from BMDO to the Navy. The results of the Secretary's review should be communicated to the congressional defense committees not later than February 15, 1996.

Arrow

The committee directs that none of the funds authorized for Arrow may be obligated until the Secretary has certified in writing to the congressional defense committees that a U.S.-Israeli Memorandum of Agreement governing the next phase of U.S.-Israeli cooperation on missile defense has been signed. Along with such certification, the Secretary shall also include a report on the annual U.S. and Israeli funding necessary to implement, and any cost-sharing arrangements contained in the agreement.

Russian-american observational satellites (RAMOS)

The committee commends the Department for providing increased funding in fiscal year 1995 for the RAMOS project. The committee continues to strongly support this cooperative research and development effort and recommends not more than $10 million for this program in fiscal year 1996 in PE 63173C.

Boost phase intercept (BPI)

To maximize defense effectiveness, ballistic missiles armed with early-release submunitions need to be attacked early in their flight trajectory. This represents a significant challenge for the defense, however. While generally supportive of the concept of boost phase intercept, the committee notes that the BPI program is at present unfocussed, with no workable system design yet defined. As a result, the committee recommends a reduction of $20 million to the request.

National missile defense (NMD)

The committee believes that the NMD program should be structured to support an initial deployment at the earliest practical date as a matter of national priority. The committee recommendation of an increase in funding for NMD of $450 million, would provide a

total authorization of $820.6 million for fiscal year 1996. This recommendation is intended to significantly accelerate the development and integrated testing of "critical path" elements of an objective NMD system, including the ground-based interceptor (GBI), the NMD-ground based radar (NMD–GBR), upgrades to existing early warning radars, and associated battle management, command control and communications (BMC3) in fiscal year 1996. The committee recognizes that the budget for the NMD–GBR has been cut dramatically in recent years, and therefore strongly urges the Director of the Ballistic Missile Defense Organization (BMDO) to provide sufficient funding to ensure significant acceleration of the NMD–GBR schedule. To reduce risk in the NMD program, the Director of BMDO is strongly urged to maintain competition in the development of an exoatmospheric kill vehicle (EKV) through flight testing. Furthermore, the committee expects that a significant fraction of the NMD budget will be used to accelerate research involving discrimination, phenomenology, component miniaturization, focal plane arrays, signal processing, countermeasures to submunitions, and kinetic kill vehicle (KKV) lethality activities.

Policy on anti-ballistic missile treaty compliance

The committee is deeply concerned about the Administration's apparent efforts to turn the 1972 Anti-Ballistic Missile (ABM) Treaty into a new, multilateral "ABM–TMD Treaty" in its arms control talks with Russia and others. Current U.S. proposals would impose specific design limitations on U.S. systems and result in a significantly compromised U.S. TMD capability.

The committee believes that U.S. forces overseas should be deployed with the most modern and capable systems available to protect them in the event of conflict. Theater missile defenses are no exception to this rule. Artificially constraining the capabilities of U.S. TMD systems risks more than good relations with the Russians—it risks American lives. The committee notes that the single greatest number of American deaths in the Gulf War resulted from the launch of one Iraqi Scud missile against a U.S. barracks in Saudi Arabia.

The committee therefore recommends a provision (sec. 235) that would prohibit the obligation or expenditure of funds for the purpose of applying the ABM treaty, or any limitation or obligation under that Treaty, to the research, development, testing or deployment of a theater missile defense system, upgrade, or component. The standard used to define the demarcation between anti-ballistic missile defenses which are limited by the ABM Treaty, and theater missile defenses which are not, is similar to the one used by the Administration at the beginning of the negotiations among the United States, Russia, and other nations. This definition would provide that a missile defense system which is covered by the ABM Treaty is defined as one which has been flight-tested against a ballistic missile which, in that flight test, exceeded, first, a range of more than 3,500 kilometers, or, second, a maximum velocity of more than 5 kilometers per second. Put simply, if a missile defense system has not been flight-tested in an ABM mode—and therefore has not demonstrated a flight-tested capability to counter inter-

continental ballistic missiles—it should not be limited in any way by the ABM Treaty.

The committee also recommends a provision (sec. 236) that would strongly urge the President to pursue high-level discussions with Russia to amend the ABM Treaty, and to seek to foster international cooperation in the development, deployment and operation of BMD systems.

Finally, it is the committee's understanding that all the elements of an NMD system architecture listed in section 233 can be developed and deployed under the ABM Treaty. The Treaty limits only the number of ground-based interceptors and the number of ABM sites, and may affect the ability of sensors other than ABM radars to contribute efficiently to the performance of the overall NMD system.

ITEMS OF SPECIAL INTEREST

Advanced electronic technologies

The detailed descriptive material provided by the Department to support the budget request for PE 63739E, project MT–07, is inconsistent with the project name: "advanced electronic technologies." The committee denies the $23.642 million request.

Advanced SEAL delivery system

The budget request included $24.607 million in PE 1160404BB to complete fabrication and integration of the first Advanced SEAL Delivery System and begin system–level testing. The committee recommends an increase of $4 million to complete evaluation of the ASDS employed from the SSN–688 class submarine.

Advanced sensor applications program

The budget request included $17.382 million in PE 63714D for the advanced sensor applications program. The committee has monitored the pursuit by the Navy and the Office of the Secretary of Defense Advanced Sensor Applications Program (OSD ASAP) of different approaches to laser radar anti-submarine warfare (LIDAR ASW) systems—the former as an operational prototype, the latter as an alternative system concept offering the potential for future improvements in LIDAR ASW. The committee recommends an increase of $5 million to develop a research prototype and an increase of $5 million for the Navy ATD–111 system. Comparative testing of the two approaches should provide a basis for establishing the requirement for a follow-on system. The committee requests the Navy and OSD to jointly develop at the earliest practicable date a plan for completing the testing of the two alternative approaches to LIDAR ASW and to provide the plan to the congressional defense committees by March 1, 1996.

Advanced submarine technology development

The budget request included $7.473 million in PE 63569E for the Advanced Research Projects Agency's advanced submarine technology program. The Navy's research and development emphasis on development of the New Attack Submarine (NAS) is understandable; however, a longer-term view of advanced submarine re-

search and development by the Department of Defense is required to enhance the operational capability of submarines operating in the littoral against proliferating quiet diesel submarines and other anti-submarine warfare threats. As discussed in the classified annex, the committee believes that the planned investment in submarine research and development is below that required to maintain technological superiority. Accordingly, the committee recommends an additional $23 million for the Advanced Submarine Technology Program managed by the Advanced Research Projects Agency to pursue innovative technologies for submarine operations in littoral regions, continue work in new concepts for structural acoustics and management of submarine signatures, and enhancement of multi-mission capability.

Aeronautical research and test capabilities assessment

The committee is aware that the Department has conducted or participated in numerous prior studies associated with aeronautical facilities for research, development, test and evaluation. However, the committee remains concerned over the viability of the Department's role in this area and its part in shaping the overall vision and framework that will serve U.S. national security and international competitive interests in military and civil aeronautics over the long term. Accordingly, the committee recommends a provision (sec. 260) which would direct the Secretary of Defense to conduct a comprehensive review of aeronautical research and test capabilities to identify appropriate long-term options for developing and sustaining such capabilities, to include actions which can be taken within the Department and in concert with other federal agencies, academic institutions, and private industry. The committee further expects that the Department's action plan would specifically emphasize current and proposed future wind tunnel facilities, to include subsonic and transonic wind tunnels. In developing its report and action plan, the committee encourages the Department to consult with the Aeronautics and Space Engineering Board of the National Research Council.

AIRMS application program

The committee recognizes the technical success achieved by the Advanced Research Project Agency's (ARPA) Airborne Infrared Measurement System (AIRMS) in investigation of the capabilities of infrared sensors for long range surveillance, detection, targeting, and pointing. The committee understands that the ARPA AIRMS experiment is coming to an end and is concerned that the technical capability represented by the system not be lost. The committee believes that the system is a national asset and has a number of potential applications in surveillance, anti-submarine warfare, surface mine countermeasures, cruise missile, theater air defense, and naval fire support. The committee understands that discussions are underway in which the airplane, sensor, and all support services and funding to support the program through March 31, 1996, would transition from ARPA to the Defense Airborne Reconnaissance Office, or some other defense agency, for further investigation of potential applications of the technical capability. The committee wishes to see the significant investment in this program re-

turned in successful user applications and would encourage a request for reprogramming by the receiving agency to continue support for the program in fiscal year 1996.

Computing system and communication technology

The committee has received the final report from the National Academy of Sciences on the High Performance Computing and Communications Initiative (HPCCI) study required by the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160). The committee directs the Director, Advanced Research Projects Agency to submit to the congressional defense committees of the Senate and House of Representatives 120 days after enactment of this act, a report on what steps have been taken to implement the recommendations of that study. Further, the committee notes an unsubstantiated growth in this program and directs prioritizing and control over the large number of program facets. The committee reduces PE 62301E by $25 million. This reduction shall not apply to software engineering technology (project ST–22).

Cruise missile defense advanced concept technology demonstration

The budget request included $7 million in PE 63750D for support of the cruise missile defense advanced concept and technology demonstration (ACTD). The committee understands that the Department of Defense has increased the priority of cruise missile defense in order to develop and deploy cruise missile defenses as a complement to ballistic missile defenses in an integrated theater air defense architecture. The committee recommends an increase of $8 million for simulation and analysis of cruise missile defense options being demonstrated in this ACTD in support of the Joint Staff and Office of the Secretary of Defense tradeoff examinations of how best to defend deployed U.S. forces against cruise missile attack.

Cryogenic electronics

The committee is aware of recent breakthrough technologies in higher transition temperature superconducting materials as well as the potential pay off in electrical circuit efficiency, size and capacity if low temperature circuits such as precision band pass filters can be cost-effectively developed, manufactured, and operated.

The committee recommends an additional $5 million in PE 62712E, project MPT–06, for this purpose.

Defense experimental program to stimulate competitive research (DEPSCoR)

The committee recommends continuation of the DEPSCoR program to strengthen infrastructure, enhance research, and develop human resources to assist the EPSCoR states to become more competitive for regular research and training grants. The committee recommends an additional $20 million in PE 61103D.

Defense laboratory partnership program

The budget request included $16.106 million in PE 63570D to support unspecified technologies and a dual-use process. The committee views this program as redundant to defense laboratory cooperative research and development agreements and an unnecessary

layering of dual-use processes. The committee recommends no authorization for fiscal year 1996.

Defense research science

The committee recommends a reduction to the defense research sciences of $5 million in PE 61101E, projects CCS–02 and ES–01.

Demilitarization of conventional munitions and explosives

The budget request included $16.799 million in PE 63225D for the joint DOD–DOE munition technology development program. The committee recommends an increase of $15 million only for the cooperative development and demonstration by the Department of Defense and the Department of Energy of environmentally-compliant processes for the demilitarization and disposal of unserviceable, obsolete, or non-treaty-compliant munitions, rocket motors, and explosives. The committee believes there are a number of potential technologies that could be considered, including (but not limited to) super-critical water oxidation, molten metal pyrolisis, plasma arc, catalytic fluidized-bed oxidation, molten salt oxidation, incineration, and underground contained burning. The committee believes that the Department of Defense must develop a plan to address the growing backlog of conventional munitions and explosives awaiting demilitarization and disposal, and directs that the Secretary of Defense provide a report on the requirements for such a conventional munitions and explosives demilitarization program to the congressional defense committees by July 1, 1996.

Electronics manufacturing and packaging technology

The committee continues to seek ways to substantially reduce the cost and increase the performance of advanced military electronics systems. Seamless high off-chip connectivity (SHOCC) provides an innovative opportunity to achieve these goals through increased manufacturing yields of highly complex electronic circuits. Likewise, the use of non-woven aramide fibers for printed circuit boards will provide three dimensional packaging that will provide reduced weight, reduced defects and compactness. The committee recommends an additional $7.5 million and $10 million for SHOCC and non-woven aramide fiber packaging, respectively, in PE 62712E to investigate these technologies.

Electro-thermal gun technology

The budget request included $10.5 million in PE 62715H for development of electric armaments technology. The committee recommends an increase to the budget request of $4 million for the development of electrothermal gun technology in support of Navy surface fire support and Army advanced gun propulsion technology development programs.

Framing sensors

The committee is encouraged by the successes of electro optical (EO) framing sensors with on-chip forward motion compensation (FMC) and recognizes the unique characteristics of EO framing technology. The committee recommends continued development and evaluation of EO framing sensor and the development of infrared

and multi-spectral framing technology, both with on-chip FMC for precision targeting.

Free Electron Laser

The committee directs that the Advanced Research Projects Agency evaluate continuous wave, superconducting radio frequency free electron laser (FEL) technology for defense utility and potential for dual use program funding. The Director, Advanced Research Projects Agency shall report his findings and recommendations to the congressional defense committees no later than March 1, 1996.

Fuel cells

Of the funds authorized to be appropriated in PE 63226E, the committee directs the Advanced Research Projects Agency to complete the two megawatt direct fuel cell power plant for fixed military base applications.

Global command and control architecture

The committee notes the progress achieved in development of the global command and control system (GCCS) architecture and strongly encourages the Secretary of Defense to eliminate routine bureaucratic constraints, take advantage of streamlined program management, and expedite the development and deployment of GCCS without delay. The antiquated and costly world-wide military command and control system (WWMCCS) should be phased out and shut down as soon as possible so that the Department can realize the savings and combat efficiencies of the GCCS. The committee recommends that WWMCCS savings be used for continued evolution of GCCS and insure its worldwide deployment without delay.

There are existing and developmental command and control systems in the Department of Defense which presently are not or will not be fully compatible with the common operating environment of the GCCS. Some of these systems presently have no clear migration strategy to achieve the necessary level of compatibility or interoperability for use in joint operations. These systems should be identified and modified to achieve compatibility or interoperability at the earliest possible time. The committee further believes that GCCS is the proper way to accomplish goal.

Global grid communications

The budget request included $45.188 million in PE 63226E for the Global Grid Communications program. The program is developing and demonstrating the advanced communications and information processing technologies needed for defense and intelligence operations in a geographically dispersed staff—technologies that will be used in future versions of the Global Command and Control System. The committee recommends an increase of $5 million to accelerate the program for development and demonstration of more robust system services in an object based joint task force reference architecture.

High altitude endurance unmanned aerial vehicle

The Department originally had intended that two contractor teams would be funded in a phase two development effort for the Tier II-plus unmanned aerial vehicle, leading to a flight demonstration competitive fly-off after the 27-month development effort. The current plan calls for only one contractor team to enter the 27-month development effort. The committee believes that to maintain a competitive program two contractor teams must be retained in phase two through at least critical design review and recommends an additional $60 million in PE 35154D for this purpose.

High growth rate diamond materials

The committee continues its interest in synthetic diamond materials for high density electronic packaging applications. The committee recommends an additional $3 million for chemical vapor deposition (CVD) and an additional $2 million for chemical vapor composite (CVC) deposition in PE 62712E. The Director, Advanced Research Projects Agency shall determine the most promising process for continued out year funding.

High modulus polcrylonitrile (PAN) carbon fiber

High modulus polycrylonitrile (PAN) carbon fiber is a critical component of the Theater High Altitude Air Defense (THAAD) system's kinetic kill interceptor. The committee understands that, currently only one company in the world, located in Japan, will be able to meet THAAD production requirements. The committee believes that the United States should not be totally dependent on a foreign producer for this critical THAAD component. Accordingly, the committee has included an additional total of $4 million in PE 78045A to support the development of a domestic source for this material.

High performance computing modernization (HPCM) program

The committee approves the HPCM program and directs the Secretary of Defense to ensure that system software is being developed within the science and technology program that allows full and immediate utilization of HPCM hardware being made available to Department users. In addition, software for common user support applications shall be a paramount activity in the HPCM program even at the expense of postponing new hardware acquisitions for deliveries to new sites. The Director, Defense Research and Engineering shall take direct and immediate action to realign the program to accommodate this activity. In addition, the Secretary is reminded that the HPCM program is a Department of Defense activity and no hardware system shall be placed in activities other than the Department of Defense.

Historically black colleges and universities and minority institutions

The committee recognizes the contributions of historically black colleges and universities and minority institutions (HBCU&MIs) in enabling persons from under-represented backgrounds in the sciences and engineering profession to obtain graduate degrees. The committee supports continued focus on science and engineering programs and encourages the Department to use the authorized

funding of $15.095 million to support within the HBCU&MI system, programs which encourage students to pursue combined studies in critical languages and international affairs and advanced science and engineering degrees.

Integrated bridge system for MK V special operations craft

The budget request included $13.288 million in PE 1160402BB for special operations advanced technology development. The committee recommends an increase of $1.5 million for development of a prototype maritime integrated bridge system for the MK V special operations craft to demonstrate the potential for advanced display and control technologies to enhance mission performance.

Joint technology insertion program

The budget request included $4.976 million in PE 63726D for a new three-year program to build a conceptual computer model of the joint mission space for all DOD operational missions. The committee believes that if this program is of sufficient priority within the Department it can be accommodated within the $23.3 million requested increase in fiscal year 1996 for Joint Simulation Management in PE 63832D. Accordingly, the committee recommends no authorization for fiscal year 1996.

Lithography

The committee is concerned that efforts on the part of the Congress to establish a realistic program in lithography are not fiscally supported by the Department. The committee reminds the Department of its obligation to conduct a goal oriented program as detailed in section 216 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

The committee recommends an increase to PE 63739E of $25 million, of which $15 million shall be used for technologies leading to feature sizes below 100 nanometers and shall include, but not be limited to, mask-less and resist-less technologies, extreme ultraviolet (EVU) lithography, and support nanometer metrologies. In addition, the committee also expects continuation of investigation to show the potential of ion beam lithography and continuation of the laser plasma point source x-ray demonstration. The committee recommends that the balance of any funding required by the Advanced Research Projects Agency to conduct the codified program cited above, be divested from the Department's contribution to the SEMATECH program. The committee is concerned that the Department of Defense investment strategy for the Advanced Lithography program preferred by the Advanced Research Projects Agency (ARPA) may be in conflict with the industrial road-maps proposed and recommendations made by the Semiconductor Industries Association (SIA) and/or the Semiconductor Technology Council (STC) for funding advanced lithography.

Therefore, the committee recommends a provision (sec. 214) that would permit the Director, Advanced Research Projects Agency to consider the SIA and STC recommendations as advisory only.

Littoral undersea tactical reconnaissance

The budget request included $16.502 million in PE 63226E for development and demonstration of advanced technologies for littoral anti-submarine warfare operations. Newly developed and maturing multi-static acoustic, electro-magnetic, and electro-optic technologies, integrated into existing aircraft, ship, and submarine platforms, could provide a means of countering the wide range of littoral undersea threats ranging in size from mines to submarines. The committee believes that ARPA and the Navy should begin an assessment of how to combine existing and emerging sensors and platforms so as to provide the joint amphibious operational commander an integrated picture of the littoral maritime environment. The committee recommends an increase of $7 million to begin a program to assess the effectiveness of such an integrated system of sensors. The committee believes that as the system concept matures an evaluation in an advanced concept and technology demonstration could complement the ongoing mine countermeasures ACTD and should be considered in the development of future budget requests.

Maneuver variant unmanned aerial vehicle

The budget request included $36.8 million in PE 35154D for the Maneuver Variant Unmanned Aerial Vehicle (MVUAV). No funds were authorized for this program in fiscal years 1994 or 1995 because the Department failed to provide a joint operational requirements document (JORD) or cost and operational effectiveness analysis (COEA). Availability of both of these documents to the congressional defense committees had been promised in August 1994. Yet neither has been provided. In addition, the Department has failed to provide the plan for the contribution the multitude of unmanned aerial vehicles is intended to provide the warfighter. The committee recommends no authorization for this program for fiscal year 1996.

Mobile detection assessment response systems (MDARS)

The committee recommends an increase of $7 million in PE 63228D, physical security equipment, and an additional $10 million in PE 63709D, the advanced robotics program, to avoid delays in the MDARS development.

Multiple-object tracking sensor system (MOTSS)

The committee believes accurate tracking of submunitions being dispensed from missiles and projectiles requires an accurate observation of the kinematic performance to resolve submunition collision problems and evaluate disbursement patterns. In addition, defensive weapon intercept problems also require accurate tracking. These requirements currently exceed test range capabilities. Therefore, the committee recommends an additional $7 million in PE 62702E for a high resolution, mobile multiple-object tracking system.

Multi-function self aligned gate technology

The committee recommends an additional $12 million in PE 35154D to complete development and flight test of the multi-func-

tion self aligned gate (MSAG) technology for unmanned aerial vehicles.

Nuclear detection systems

The committee believes it is imperative that the development of improved nuclear detection and forensic analysis capabilities be accelerated because of increased international terrorism as well as attempted acquisition of weapons-grade nuclear materials by criminal groups. Accordingly, the committee recommends an additional $11 million in PE 62301E, project ST 23, for such purposes.

Operations other than war

The committee does not understand the need for the Advanced Research Projects Agency to conduct simulation and modeling studies for operations other than war. The Secretary shall redirect this activity for coordination and development within the military services, which will perform those functions.

The committee recommends a reduction of $4.3 million in PE 62702E, project T–04.

Quiet Knight advanced concept and technology demonstration

The budget request included $101.602 million in PE 1160404BB for Special Operations tactical systems development. The committee understands that of this amount the Special Operations Command has planned $10 million to support Phase I (component development and demonstration) of an advanced concept technology demonstration of Quiet Knight for both fixed and rotary wing aircraft, and considers this amount sufficient to support the program during fiscal year 1996. The committee strongly supports this effort and its continuation to a Phase II full scale demonstration and flight test of the integrated Quiet Knight capability. The committee expects that the Special Operations Command and the Office of the Secretary of Defense will address funding requirements for completion of the Phase II Quiet Knight advanced concept and technology demonstration in the fiscal year 1997 budget request.

Research goals for historically black colleges, universities and minority institutions (HBUC/MI)

Section 2323 of title 10, United States Code, sets forth goals for the Department for contracts and grants with HBCU/M institutions. The committee believes that clarification is necessary on how goal achievement shall be determined for the Department's research program. Those departments or entities in the Department of Defense which conduct research programs through grants, contracts or other official arrangements shall determine goal achievement for HBCU/MI by calculation of the entire contract value in sum for that department or entity only. For example, programs in 6.1 (research) shall compute the HBCU/MI goal based upon the total academic research obligations in the 6.1 (research) program only.

Senior year electro-optical reconnaissance sensor program

The committee recommends an additional $14 million in PE 35154D to upgrade all Senior Year Electro-optical reconnaissance

sensor program sensors to the newest configuration, upgrade existing ground stations, and effect preplanned product geolocational accuracy improvements.

Specialty metals

The committee is pleased to see that the Advanced Research Projects Agency has budgeted for specialty metals development such as beryllium-aluminum alloys, ductile iron, and titanium through advanced material partnerships and other technology development arrangements. The committee understands that not less than $20 million is planned for specialty metals in PE 62712E.

Strategic Environmental Research and Development Program (SERDP)

The committee recommends a reduction in the request for the SERDP program of $3 million for the joint Department of Defense-Department of Energy atmospheric remote sensing and assessment program for global climate change, a reduction of $500,000 for low energy model installation, and a reduction of $780,000 for energy conservation/renewable resources activities for a total reduction in PE 63716D of $4.28 million. The committee recognizes the benefit to the Navy from the Acoustic Thermometry of Ocean Climate (ATOC) and recommends continuation of the U.S./Russian Arctic component in cooperation with the Office of Naval Research.

Synthetic theater of war

The budget request included $79.065 million in PE 63226E for the Advanced Distributed Simulation program. The committee is aware of reductions in fiscal year 1995 funding for the program which would adversely affect the ability to demonstrate and transition the Joint Synthetic Theater of War (STOW) in the STOW–97 advanced concept technology demonstration. Accordingly, the committee recommends an increase of $6.8 million to the budget request to maintain the STOW–97 demonstration program.

Tactical landing system

The committee recommends an additional $7 million in PE 62702E to complete the current development and testing of a tactical landing system (previously know as the advanced landing system), integrate and evaluate miniaturization and other technology to meet military requirements, and manufacture, install and test prototypes.

Tactical technology

The committee is aware of the rapid developments in simulation based design and the importance of electronic linkages to reduce design to product time and cost. The committee supports the electronic commerce resource centers programs that facilitate the design and manufacturing processes in the defense industry. The committee approves the Department's request for these programs.

Warbreaker/attack of critical mobile targets

The budget request included $117.759 million in PE 63226E, Experimental Evaluation of Major Innovative Technologies, for the

Advanced Research Project Agency's WAR BREAKER program to develop and demonstrate advanced technologies and systems to enable the detection, identification and prosecution of a wide range of high value, time-critical fixed and mobile targets. The committee has strongly supported the WAR BREAKER project from the focus of its predecessor programs on advanced technologies that addressed the problem of the mobile SCUD threat experienced during Operation Desert Storm to the present program which deals with a much more comprehensive target set. The committee notes, however, that as the target set has expanded, the focus of the project has been defused; the original objective of dealing with the mobile SCUD threat has been largely set aside; and the WAR BREAKER project has become more general with the objective of maturing and integrating a wide range of advanced technologies and developing and demonstrating systems concepts for prosecuting a range of targets. While there are tasks and experiments under the overall WAR BREAKER umbrella that have specifically identifiable payoffs and pose potential solutions to individual and joint service requirements, the overall WAR BREAKER program appears to have become open-ended, with a funding level growing to $148 million by fiscal year 2001, and having no perceivable end.

The committee understands that the Director, ARPA intends to review the WAR BREAKER program and other programs within the overall Experimental Evaluation of Major Innovative Technologies program element with a view to sharpening program focus, relevance to service requirements, and the application of advanced technology to meeting those requirements. The committee endorses and looks forward to the results of this review. The committee believes that those ARPA programs have been most successful in transitioning advanced technology and system concepts to the military services that had clearly defined objectives aimed at satisfying service requirements, close association between the potential user and ARPA program management, and successful development and demonstration over a relatively limited period of time.

LEGISLATIVE PROVISIONS

SECTION 203—MODIFICATIONS TO STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

This section would make a number of modifications to chapter 172 of title 10, United States Code, which governs the Strategic Environmental Research and Development Program. These changes, which are designed to streamline and simplify program activities, would reorient the program's focus toward the identification and support of basic and applied research, development and demonstration in technologies useful for the Department of Defense and Department of Energy defense facilities, eliminate the annual report on the five-year strategic environmental research development plan, and place control of the program more squarely within the responsibility of the Secretary of Defense.

SECTION 211—SPACE LAUNCH MODERNIZATION

This section would provide $100 million for the Air Force for reusable rocket technology and $7.5 million for evaluation of proto-

type hardware of low cost expendable launch vehicles. Obligation of the funds for the reusable launch vehicle program would be limited to no more than that allocated for the reusable launch vehicle technology program for the National Aeronautics and Space Administration.

SECTION 212—MANEUVER VARIANT UNMANNED AERIAL VEHICLE

This section would prohibit the obligation of funds for the research, development, test, or evaluation of the maneuver variant unmanned aerial vehicle.

SECTION 213—TACTICAL MANNED RECONNAISSANCE

This section would prohibit the obligation of funds by the Secretary of the Air Force for research, development, test, or evaluation for a replacement aircraft, pod, or sensor payload for the tactical reconnaissance mission.

SECTION 214—ADVANCED LITHOGRAPHY PROGRAM

This section would permit the Director, Advanced Research Projects Agency to consider the SIA and STC recommendations as advisory and would allow him to establish priorities and funding levels consistent with the best interests of national security.

SECTION 215—ENHANCED FIBER OPTIC GUIDED MISSILE (EFOG–M)

This section would limit funding for the enhanced fiber optic guided missile (EFOG–M) program if test and operational missiles and associated fire units are not delivered on time and within current cost estimates.

SECTION 216—JOINT ADVANCED STRIKE TECHNOLOGY PROGRAM

This section would reduce the fiscal year authorization request for the Joint Advanced Strike Technology program by $51 million and require a report by the Secretary of Defense detailing the architecture for tactical combat aircraft, cruise missiles, standoff precision guided missiles, and surface to surface precision guided munitions. The provision would further limit fiscal year 1996 expenditures until 30 days after the submission of the required report.

SUBTITLE C—BALLISTIC MISSILE DEFENSE ACT OF 1995

SECTION 231—SHORT TITLE

This section would designate this subtitle as the "Missile Defense Act of 1995."

SECTION 232—BALLISTIC MISSILE DEFENSE POLICY OF THE UNITED STATES

This section would establish the ballistic missile defense policy of the United States.

SECTION 233—IMPLEMENTATION OF POLICY

This section would direct the Secretary of Defense to take certain actions to implement the policy established in section 232, and to issue a report to Congress setting forth the Secretary's plan for im-

plementing that guidance. Further, the section would direct that the report include a revised five-year funding plan for National Missile Defense (NMD), consistent with the guidance contained in the provision. The Secretary's report would specify projected timelines and costs for deploying advanced Theater Missile Defense (TMD) systems and an NMD system. Furthermore, the report would state whether or when ABM Treaty constraints would have the effect of constraining the deployment and efficient operation of a highly-effective NMD system.

SECTION 234—FOLLOW-ON TECHNOLOGIES RESEARCH AND DEVELOPMENT

This section would direct the Secretary of Defense to pursue research and development of follow-on technologies and systems for national and theater missile defense, and state an exclusion from the initial deployment architecture.

SECTION 235—POLICY ON COMPLIANCE WITH THE ABM TREATY

This section would establish policy concerning systems subject to the ABM Treaty, state certain prohibitions, and define an ABM-qualifying flight test.

SECTION 236—BALLISTIC MISSILE DEFENSE PROGRAM ACCOUNTABILITY

This section would require an annual report describing technical milestones, schedules, and cost of various Ballistic Missile Defense (BMD) programs.

SECTION 237—ABM TREATY DEFINED

This section would define the term "ABM Treaty".

SECTION 238—REPEAL OF MISSILE DEFENSE ACT OF 1991

This section would repeal the Missile Defense Act of 1991.

SUBTITLE D—OTHER BALLISTIC MISSILE DEFENSE PROVISIONS

SECTION 241—BALLISTIC MISSILE DEFENSE FUNDING FOR FISCAL YEAR 1996

This section would authorize funding for ballistic missile defense research, development, testing, and evaluation activities for fiscal year 1996.

SECTION 242—POLICY CONCERNING BALLISTIC MISSILE DEFENSE

This section would state congressional views on the relationship between U.S. ballistic missile defense and counter proliferation activities and U.S. ballistic missile defense activities and strategic stability, and urge the President to initiate discussions with other nations on various subjects related to ballistic missile defense.

SECTION 243—TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS

This section would amend section 237 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) regarding testing of theater missile defense interceptors.

SECTION 244—REPEAL OF MISSILE DEFENSE PROVISIONS

This section would repeal six provisions of law with respect to missile defense.

SECTION 251—ALLOCATION OF FUNDS FOR MEDICAL COUNTERMEASURES AGAINST BIOWARFARE THREATS

This section would amend section 2370a of title 10, United States Code to permit up to 50 percent of the funds provided for the medical component of the Biological Defense Research Program of the Department of Defense to be used for product development or for research, development, test, or evaluation of medical countermeasures against mid-term or far-term validated biowarfare threat agents. The potential for proliferation of biological warfare capabilities (including their potential use in terrorist attacks) and for development of new agents through genetic engineering dictates that increased attention should be given to research and development of medical countermeasures to potential mid-term or far-term biowarfare threat agents.

SECTION 252—BASIC RESEARCH

This section directs the Secretary of Defense to provide the equivalent of a cost and operational effectiveness study for the consolidation of the individual services' basic research accounts to determine potential infrastructure savings.

SECTION 253—AWARDS OF GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES: REQUIREMENTS OF COMPETITION

This section would amend section 2361 of title 10, United States Code to change the annual reporting requirements on the use of competitive procedures for awards of research and development contracts, and the award of construction contracts, to colleges and universities from each preceding "calendar" year to each preceding "fiscal" year.

SECTION 254—UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM

This section would amend section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) to change the university research initiative support program from a mandatory program to a voluntary program and provide for improved review procedures. The purpose of this amendment is to provide flexibility in administering the university research initiative program and to better ensure defense relevance.

SECTION 255—ADVANCED FIELD ARTILLERY SYSTEM (CRUSADER)

This section would impose spending authority limitations on the Secretary of the Army unless certain technical performance is achieved by August 1, 1996 in the Crusader program. The provision would permit the Secretary to significantly alter the Crusader acquisition plan for the cannon propellant if it is required to achieve the objectives of the Advanced Field Artillery System (AFAS), provided notification is given to the defense committees of the Senate and House of Representative.

The provision would also require that an assessment of AFAS technology maturity to meet the Army requirements be provided to the defense committees of the Senate and House of Representatives by March 30, 1996.

SECTION 256—COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE INTEROPERABILITY

This section would require the Secretary of Defense to request the National Research Council of the National Academy of Science to conduct a comprehensive study of defense-wide communications, and intelligence systems. The committee is concerned that the substantial investment in these systems may not have appropriate management control to ensure compatibility and interoperability of hardware and software associated with the command, control, communication, computers and intelligence (C4I) systems in inventory and in acquisition, and that sufficient justification information exists on which to gauge the validity of the Department's annual request.

SECTION 257—FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

This section would require the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force to reevaluate the functions of Federally Funded Research and Development Centers (FFRDCs) and to achieve certain reductions, consolidations and management goals. The provision would limit FFRDC funding to $1.15 billion. This provision would also reduce FFRDC funding by $90.097 million.

SECTION 258—MANUFACTURING TECHNOLOGY PROGRAM

This section would reflect changes to the manufacturing science and technology program by eliminating the technology base focus on the program and providing new emphasis on near term cost reduction applications. In addition, the provision would require larger non-federal government cost share for 25 percent of the program appropriation and eliminate cost share for academic institutions.

SECTION 259—LABORATORY TEST AND EVALUATION STRATEGIC PLAN

This section would require the Secretary of Defense to prepare a five year strategic plan to consolidate and restructure the Department's Research and Development laboratories and test and evaluation centers.

SECTION 260—AERONAUTICAL RESEARCH AND TEST CAPABILITIES ASSESSMENT

This section would require that the Secretary of Defense assess aeronautical research and test facilities and capabilities of the United States and provide a report to the congressional defense committees and detail the findings and recommendations of the review.

SECTION 261—T–38 AVIONICS UPGRADE

This section would require that the Department of the Air Force only consider foreign companies for the award of the contract for the T–38 avionics upgrade if such companies are headquartered in countries that allow equal access to U.S. companies for such contracts.

SECTION 262—DUAL-USE TECHNOLOGY PROGRAMS

This section would cross reference sections 2358(a)(2)(B) and 2371(a) with section 2501 of title 10, United States Code, to encourage the use of dual-use technology programs in defense research and technology programs.

TITLE III—OPERATION AND MAINTENANCE

OVERVIEW

Through careful study, hearings, and analysis, the committee has determined that the readiness problems experienced by the military services in fiscal year 1994, and most acutely in the fourth quarter of fiscal year 1994, were the inevitable result of declining defense budgets, a significantly reduced force structure, and an increased pace of contingency operations.

During 1994, training was canceled or deferred, planned and funded maintenance of weapons, equipment and real property was not accomplished, purchases of critical spare parts stopped and the quality of life for service members suffered. Many Army divisions reported degraded readiness levels and Navy surface combatant training readiness declined from the previous year. Navy and Marine Corps aviation squadrons had to be grounded with planes "bagged," or placed in temporary storage, the first time in memory of many senior Navy personnel that such an action was taken. In the Air Force, crews in 13 of 21 of its flying weapons systems exceeded the Air Force standard of 120 days on temporary duty away from their home base.

The United States armed forces are the best trained and equipped force in the world. Nevertheless, readiness is a perishable commodity which demands constant vigilance. Accurately measuring readiness is a complex task. In addition to tank miles, flying hours and steaming days, there are many other factors which impact on overall readiness—personnel tempo, maintenance backlogs, troop morale, quality of life programs, base operations support, equipment modernization, recruiting and retention.

In recognition of the complexity of addressing these challenges, the committee's strategy for maintaining readiness has five main components: (1) providing the necessary resources to ensure that the problems experienced in fiscal year 1994 are not repeated; (2) increased scrutiny over the disposition of those funds; (3) increased oversight on force readiness assessments; (4) the establishment of improved mechanisms to fund contingency operations, both planned and unplanned, so that funds are not diverted from critical readiness accounts; and (5) infrastructure reforms to free additional resources for critical readiness activities and force modernization—the key to future readiness.

ITEMS OF SPECIAL INTEREST

ASSESSING READINESS

The committee remains concerned over the admission late last year that three Army divisions were at a low readiness condition. This revelation came only weeks after a senior DOD official declared "* * * that the readiness of the forces as [sic] high as they have ever been—higher * * * than they were in 1991 when we were worrying about Iraq the first time." Congress and the American people must have confidence that military force readiness is and will be up to standards. The traditional system for measuring readiness is inadequate. It is narrowly focused, too subjective and inconsistently applied. More importantly, it represents only a snapshot in time, providing no predictive value of future force readiness. What is needed is a comprehensive readiness assessment system based on relevant and reliable indicators that measure force readiness today and provide early warning of future readiness problems.

The committee was encouraged to learn during testimony that the Department has a number of initiatives underway to improve readiness assessments. The committee supports these efforts and believes it is critical to maintain the momentum which currently exists. Therefore, the committee directs the Secretary of the Defense to complete and report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives actions agreed to by the Department of Defense in response to recommendations made by the General Accounting Office in its October 1994 report, "Military Readiness: DOD Needs to Develop a More Comprehensive Measurement System" (GAO/NSIAD–95–29), including:

(1) Selection of indicators identified as being critical to predicting readiness and most relevant to a more comprehensive readiness assessment;

(2) Development of criteria to evaluate the selected indicators;

(3) Prescription of how often the selected indicators will be reported to supplement Status of Resources and Training System (SORTS) data;

(4) Ensuring that comparable data is maintained by all the military services to allow the development of trends in the selected indicators.

Additionally, the Secretary of Defense shall include in this report steps being taken to ensure that the various initiatives underway are coordinated to prevent duplication of effort and to ensure a sharing of lessons learned.

Finally, the committee recommends a provision (sec. 371) that directs the Secretary of Defense to report quarterly to the congressional defense committees on force readiness based on regularized readiness briefings provided to senior DOD military and civilian leadership as part of their readiness oversight responsibility. Currently, such briefings include the monthly readiness briefings provided to the Senior Readiness Oversight Council and as part of the Joint Monthly Readiness Review. The reports should focus specifically on identified problems or deficiencies and planned remedial

actions, and should include the key indicators and other relevant data related to the identified problem area or deficiency.

READINESS FUNDING

The President's budget request for fiscal year 1996 clearly recognizes the critical shortfalls in readiness identified in fiscal year 1994. Nevertheless, the committee believes that additional funding is warranted in key areas. The committee recommends funding increases of $2.8 billion above the President's request of $91.6 billion for a total of $94.4 billion. The committee's recommended increase includes $1 billion for real property maintenance, $440 million for depot maintenance, $425 million for base operations support, $100 million for reserve component readiness, and $100 million for mobility enhancements.

It is the committee's strong view that resources provided for training, operations and maintenance be used for those intended purposes. The committee remains concerned, however, over the extent to which resources provided for training and maintenance are diverted for other uses and the effects on readiness of such diversions. Therefore, the committee recommends a provision (sec. 373) that would amend an existing reporting requirement by the Secretary of Defense requiring semi-annual reports on transfers of funds to and from certain identified readiness accounts and an explanation of the reason for the transfer.

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REAL PROPERTY MAINTENANCE

The committee is seriously concerned over the backlog associated with maintenance and repair of existing facilities. The present replacement cycles for facilities in the inventory of each of the military services has grown dangerously lengthy. Given current levels of funding, shortening the replacement cycles for those facilities is unlikely in the near-term. The committee recognizes that accelerated levels of funding for repair and maintenance are urgently required to begin to reduce the backlog of maintenance and repair that is critical to military readiness and the safety of military and civilian personnel.

The fiscal year 1996 budget request for real property maintenance (RPM) was $5,053,000,000. The committee recommends an increase of one billion dollars, for a total of $6,053,000,000. The committee further recommends that the increase be distributed as follows:

[In millions of dollars]

Army	350.0
Army National Guard	21.0
Army Reserve	17.0
Navy	150.0
Navy Reserve	12.0
Marine Corps	100.0
Marine Corps Reserves	1.5
Air Force	320.0
Air National Guard	15.0
Air Force Reserve	13.5
Total increase	1,000.0

The committee directs the military services to apply the recommended increase in funding for RPM to required repair and maintenance of barracks and dormitories, critical health and safety deficiencies, and mission critical operational deficiencies, including the repair and maintenance of training ranges, airfields, railheads, and piers.

RESERVE READINESS

The recent increased use of reserve forces to augment active duty units experiencing excessive commitments is expected to continue in the years ahead. However, the budget contains insufficient resources for properly training, maintaining, and resourcing Army National Guard and Army Reserve units to accept equipment flowing from the active component. In the operating tempo (OPTEMPO) area, the budget request funds National Guard and Army Reserve ground OPTEMPO at 75% of the requirement versus 96% of the requirement in fiscal year 1995. Therefore, the committee recommends an increase of $60 million to the Army National Guard and $40 million to the Army Reserve in operations and maintenance funding to alleviate these shortfalls.

The committee has become aware that the Army National Guard faces possible funding shortfalls for support of six fixed-wing Short Take-Off and Landing (STOL) aircraft due to be delivered late in fiscal year 1996. The committee urges that adequate funding be provided to the Guard for the purposes of meeting this identified shortfall.

MOBILITY INFRASTRUCTURE ENHANCEMENT

The committee recommends $100 million to improve deployment capability and enhance mobility through investment in en-route infrastructure, including runway ramp space, preservation of en-route base availability, and ammunition loading. The funding is authorized in the operation and maintenance, defense-wide activities account for application to high priority projects with the potential for multiple mobility improvements. The Secretary of Defense is directed to report on the expenditure of these funds to the congressional defense committees prior to allocation of these funds and should seek the view of the Commander in Chief, U.S. Transportation Command, in determining the application of these resources. The committee encourages the inclusion within this program of funding for the Center for Commercial Deployment of Transportation Technologies (CCDOTT).

B1–B REPAIR AND MAINTENANCE IMPROVEMENTS

The committee recommends an additional $3.98 million for repairs and maintenance associated with the B1–B bomber. Additional details on this action may be found in Title I of this report.

CHEMICAL AND BIOLOGICAL TERRORISM

The use of chemical weapons in the 1995 terrorist attacks in Japan underscored the volatility of the chemical and biological terrorist threat and the need for the United States to be prepared to respond to a similar attack on U.S. territory.

Therefore, the committee recommends a provision (sec. 383) that would require the Secretary of Defense to make available, upon request and on a reimbursable basis, training facilities, sensors, protective clothing, antidotes and other materials and expertise as needed to emergency response and federal and local law enforcement agencies.

JOINT WARFIGHTING CENTER

The committee has been encouraged by the establishment and applied utility of the Joint Warfighting Center in its mission of assisting the chairman of the Joint Chiefs of Staff, combatant commanders and service chiefs in preparing for joint and multinational operations. The Center is not being used to its greatest potential, in part because of cultural and bureaucratic inhibitions on the part of some of the CINCs. The Joint Warfighting Center is an important asset in improving joint training. Consequently, the Secretary of Defense and the JCS Chairman should work with the CINCs to make them fully aware of the Center's utility in improving CINC training efforts.

The committee urges the chairman of the Joint Chiefs of Staff to require coordination and validation by the Joint Warfighting Center of all preparations for major joint and multinational operations.

JOINT DEPLOYMENT AND TRANSPORTATION CENTER

The National Security Strategy emphasizes power projection. Currently, there is no Department of Defense-wide center dedicated to the education and training for transportation of personnel and

material supporting joint deployments. The Department of Defense should proceed with the establishment of its proposed Joint Deployment and Transportation Center (JDTC) to develop better ways to deploy and sustain forces, especially for joint deployments and missions.

CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS

The high pace of operations and high personnel tempo is highlighting shortages in certain critical high demand, low density units such as military police, air defense artillery and Airborne Warning and Control System (AWACS). At the same time, thousands of military personnel are performing functions in areas such as personnel management and data processing which do not require military skills and could be performed by civilians. Military endstrength is declining, while the pace of operations is increasing. It is critical that military personnel be assigned to billets which contribute directly to combat readiness.

The National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) required the Secretary of Defense to submit a report on his efforts to identify positions to which continued assignment of military personnel is no longer justified under current circumstances and assign Department of Defense civilian employees to replace military personnel in those positions. The report provided to the committee was unresponsive. It concluded that "No major civilianization effort should be undertaken until the Defense workforce begins to stabilize . . ." The committee disagrees. It is at just such a time of workforce restructuring that the opportunity should be taken to identify positions held by military personnel for which civilian personnel would be better suited.

Therefore, the committee recommends a provision (sec. 333) that would direct the Secretary of Defense to convert not less than 10,000 military positions to federal civilian positions in fiscal year 1996. The Secretary is also directed to report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives no later than March 31, 1996 on his plan for effecting the conversions, and opportunities for further conversions.

UH–1 REFURBISHMENT POLICY

The committee report on H.R. 4301, the National Defense Authorization Act for Fiscal Year 1995, (H. Rept. 103–499), directed that any UH–1 helicopters sold to foreign nations be done so only in a refurbished condition. The committee reiterates that any UH–1 helicopters provided to a foreign nation—either by sale or other means—be done so only in a refurbished condition and at no cost to U.S. taxpayers.

CONDITION OF M1 TANK FLEET

The committee is concerned about the absence of a procurement program for modernization of the main battle tank beyond upgrades of existing tank models, and the committee is aware of reports regarding new tank threats that are appearing worldwide. Also, senior military officials have testified before the committee

that the Army currently has no long-term plan for maintenance of the M1 Abrams tank. In light of these facts, the committee questions whether current funding levels allow the M1 tank fleet to maintain a readiness level to meet the warfighting requirements of the national security strategy.

The committee therefore requests the General Accounting Office (GAO) to undertake a review of the current condition and future projected readiness of the M1 tank fleet to respond to a future national security emergency and report its findings to the committee within 60 days of enactment of this Act. The review should include the condition and state of readiness of prepositioned tank stocks; the reliability of all maintenance performed on the M1 fleet, including field-, intermediate- and depot-level maintenance; the number of operating hours on the current tank fleet; and the operational ability of the tanks used at the National Training Center to engage soldiers in training situations that are realistic to battlefield conditions. GAO should include in its review the potential of programs linking the depot maintenance system with private industry to extend the life of the current tank fleet.

During its review GAO should examine the impact of DBOF-driven rates on field commanders' maintenance options and on the commanders' operations and support costs, and the resulting impact of those factors on tank readiness. GAO should also examine whether existing depot capabilities are being duplicated at the field level and at what cost.

STRATEGIC COMMAND "BULWARK BRONZE" EXERCISE

The commander-in-chief, U.S. Strategic Command, recently initiated a series of training exercises known as "Bulwark Bronze," involving U.S. strategic forces and personnel. The first such exercise occurred in 1994 and revealed a number of issues and shortcomings that need to be resolved. The committee endorses the conduct of one or more "Bulwark Bronze" exercises in fiscal year 1996, and urges the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to review the results of these exercises and to consider expanding upon them as a means of bolstering nuclear deterrence.

DEPOT MAINTENANCE ISSUES

CORE LOGISTICS CAPABILITY

It is the committee's strong view that a robust government depot capability is necessary for national security reasons. It is the committee's belief that eliminating the 60/40 restrictions (as stated in sec. 2466 of title 10, United States Code) is not necessarily inconsistent with maintaining a strong depot infrastructure. Therefore, the committee recommends a provision (sec. 395) that would:

(1) repeal the 60/40 restriction for depot maintenance and repair effective December 31, 1996;

(2) establish a policy for maintaining depot-level maintenance and repair core logistics capability to provide a ready and controlled source of technical competence and resources necessary to meet DOD requirements and define core logistics

capabilities to be maintained in Department of Defense (DOD) depots;

(3) require the Secretary of Defense to establish procedures to determine core capability requirements;

(4) require that depot-level maintenance and repair core capability requirements be identified and that requisite workloads be accomplished in DOD depots to maintain core capabilities and allow for movement of such workloads among all of the DOD depots as may be necessary and appropriate, but call for merit-based criteria to be used when making such moves;

(5) provide for performing in the private sector, through competitive awards, workloads in excess of those necessary to maintain core logistics capabilities and provide authority for DOD depots to compete with private firms when there are less than two qualified bidders for the workload;

(6) require accurate disclosure of all costs that are germane to competitions and that such costs be determined in compliance with applicable laws, policies and standards and that any cost calculations of the organic depot will be based on an estimate of the most efficient and cost effective manner of accomplishing the workload by the depot;

(7) establish initial and annual core capability and related planned workload reporting requirements;

(8) repeal section 2469 of title 10, United States Code, effective December 31, 1996, which requires a competition for the movement of an existing workload above $3 million from a depot.

The committee believes that this new core logistics initiative will provide an adequate in-house capacity for the repair and maintenance of military equipment necessary to ensure the readiness of all military combat units. The committee will carefully review and monitor the Department's changes for the accomplishment of depot-level maintenance and repair, and fully intends to reassess this program if the Department fails to revise its procedures consistent with the direction provided by the committee.

DEPOT MAINTENANCE WORKLOAD CARRYOVER

The committee directs the Secretary of Defense to ensure that the fiscal year 1997 budget request does not include funding for any workload unless there is reasonable assurance the work will be accomplished in fiscal year 1997, or the workload is required in order to ensure a steady flow of work at the end of the fiscal year.

NAVY ORDNANCE

The Navy ordnance business area has lost $208 million since fiscal year 1992, with four of the five weapon stations losing money. The current Navy ordnance management structure consists of a headquarters operation and two divisions to manage five weapon stations. Considering the fiscal difficulties facing this operation, the committee considers this management structure excessive. This point is illustrated by the fact that general and administrative (G&A) costs represents on average about 37 percent of the total weapon stations fiscal year 1995 stabilized prices. For some weap-

on stations, the G&A costs exceeds 50 percent of the stabilized price. Further, excessive overhead costs have had the effect of requiring reductions in critical maintenance and safety areas. The committee recommends ten million dollars to ensure that these critical areas are protected from reductions.

The committee is also concerned about reports that the Navy may have military material handling teams at the weapons stations. The committee is concerned that this practice could lead to increased costs due to the requirement to continually train military personnel to perform these critical tasks and believes that many of the functions that are being converted to military personnel are more conducive to a stable, qualified civilian workforce. The committee directs the Navy to develop a plan to show weapon stations costs, especially the headquarters and divisional costs. This plan should be provided to the committee by December 15, 1995.

SHIP REPAIR SUBCONTRACTORS

The committee is concerned over continuing reports that Navy ship repair subcontractors are not being paid in a timely fashion, and in some cases not being paid at all, by prime contractors for work completed in the repair and maintenance of Navy vessels. The committee is concerned that this problem could increase in severity during this period of contraction in Navy fleet maintenance activity.

A 1993 General Accounting Office report recommended that the Secretary of Defense identify circumstances under which contracting officers should take action to provide payment protection for subcontracts and also implement appropriate payment protection techniques. The committee believes the Department should pursue remedies necessary to ensure that the subcontractor community will be able to support the U.S. Navy fleet.

DOD FINANCIAL MANAGEMENT

Over the past several years, numerous reports by the General Accounting Office (GAO), congressional committees, and the DOD Inspector General, have been critical of the Department of Defense's inability to provide adequate stewardship over hundreds of billions of dollars of public funds.

The DOD Comptroller has also stated that the Department's finance and accounting system today is a "burned-out wreckage of outdated and cumbersome systems." Severe shortcomings in financial operations currently preclude the Department from having basic accountability over vast sums of money. Consequently, senior DOD management and the Congress lack the information needed to run the Department in an efficient and effective manner.

The committee believes that the Department's recognition of the financial management problems it faces represents a marked and welcome change in management philosophy. The Department must now take action to fix the problem and hold responsible individuals more directly accountable.

According to an October 1994 GAO report, as of June 1994 DOD's records contained at least $24.8 billion of problem disbursements. This amount increased to about $30 billion, as of February

1995. This marks an increase of nearly one quarter in problem disbursement transactions over an eight month period. Further, over $5 billion of this amount is in old canceled accounts, most of which were previously known as "M" accounts.

Records in one accounting system, known as Mechanization of Contract Administration Services (MOCAS), at the Defense Finance and Accounting Service-Columbus, showed that for 2,551 contracts, DOD had paid contractors about $1 billion more than the amount of the contracts. Second, hundreds of contractors voluntarily returned almost 4,000 checks totaling $751 million to DFAS-Columbus, including $305 million of overpayments. To correct this disbursement problem, the Department has a number of initiatives planned and underway.

Accordingly, the committee directs the Secretary of Defense to provide an annual report on the disbursement problem beginning on September 30, 1995. The report should show disbursement problems for the following categories: (1) negative unliquidated obligations, (2) unmatched disbursements, (3) intransit disbursements, and (4) undistributed disbursements. Further, the report should provide an explanation if the amount of the disbursement problem (for an individual category at the DFAS-Center) is not being reduced. The explanation should include why the balances are not decreasing and what actions DOD is taking to correct the problem, including the amount of funds being spent on the action.

CASH MANAGEMENT

Since the Defense Business Operating Fund (DBOF) was established, its cash balance has been centrally managed by the Office of the Comptroller. On February 1, 1995, the Department of Defense returned the management of the DBOF's cash and related Anti-Deficiency Act (Public Law 97–258) limitations to the military service and DOD component level. This policy change is a major departure from the single cash balance objective the Department cited in establishing DBOF. By consolidating the cash balances of the old industrial and stock funds, DOD reduced by several billions of dollars DBOF's cash requirement needs. However, the policy change placing the management of cash at the military services and DOD component level could result in DBOF's cash requirements increasing by over $1 billion. According to the General Accounting Office (GAO), the change in the cash policy has resulted in the amount of advance billing increasing from about $3 billion to about $5 billion.

The committee disagrees with the Department's decision to place the cash management responsibility for DBOF cash back in the hands of the military services and DOD components. The management of cash at the central OSD level has proven that the overall cash balance can be reduced. Therefore, the committee recommends a provision (sec. 312) that would require the Office of the Secretary of Defense (Comptroller) to immediately reverse its February 1995, decision and to centrally manage DBOF's cash.

Further, the committee directs the GAO to perform a review of the Fund's cash management practices. The report should be submitted to the committee no later than March 15, 1996.

PRIOR YEAR LOSSES

According to the Department's pricing policy, prices charged DBOF customers should be increased to recover losses. The committee agrees with GAO that this policy is inconsistent with the basic tenet of DBOF—that prices should reflect the actual cost incurred in providing goods and services in the current fiscal year. Prices that reflect only the cost expected to be incurred for that period would enable DOD and the Congress to determine the cost of each year's operations and measure the performance of DBOF's various business areas for that period.

Most of DBOF's losses pertain to the Navy. While the Army, Air Force, and DOD-wide components have tried to comply with the DBOF concept and operate on a break-even basis, the Navy has incurred substantial losses totalling over $1 billion. To finance these losses, the Navy has included $695 million in its fiscal year 1996 operation and maintenance budget request that it plans to transfer to DBOF. However, DBOF prices already have been increased in fiscal year 1994 and 1995 to recover losses incurred during fiscal years 1992 and 1993.

Section 314 of the bill would require future budgets to include the amount necessary to cover prior year losses.

FINANCIAL SYSTEMS

The Defense Business Operations Fund (DBOF) currently uses 80 disparate, unlinked financial systems and approximately 200 ancillary systems that provide financial data. Consequently, DBOF accounting data is often not complete, timely, or useful.

The committee directs the Secretary of Defense to provide a report to the congressional defense committees identifying the total estimated cost to improve DBOF's information systems. This estimate should include the following significant costs: (1) improvements needed to meet the minimum technical requirements, (2) data conversion from the existing systems to the interim migratory system, (3) development of interfaces with nonfinancial systems, such as logistics and personnel, (4) training of personnel who will operate and enter data into the interim migratory system, and (5) replacement of the 63 existing systems with the interim migratory systems. This report should be presented no later than March 1, 1996.

DBOF PRICES SHOULD INCLUDE THE FULL COST OF MILITARY PERSONNEL

The current DBOF policy provides that the cost of military personnel will be assessed at the civilian equivalent rate, not the actual cost of military personnel. This practice understates the total military personnel costs resulting from the 27,000 military personnel working in DBOF operations.

Section 313 of the bill would require the use of actual military costs in developing DBOF's fiscal year 1997 prices that will be charged to the customers. The military personnel accounts would be reimbursed based on the levels contained in the budget request or authorized by Congress. This policy would apply only to those military personnel who are included in the rates charged by the in-

dustrially funded activities. This policy would not apply in the event that personnel are working in the industrial activities in a training or other capacity wherein it is not normally required to have their pay reimbursed to the industrial funds from operation and maintenance funds.

CAPITAL ASSETS

DOD managers continue to receive inaccurate data on DBOF's annual $1.4 billion capital asset program. Specifically, financial data on the amount of revenue earmarked for purchases of capital assets, capital asset obligations, and capital asset outlays is questionable. DBOF business areas only obligated about 58 percent of the capital asset authority provided to them. A review of the fiscal year 1994 financial reports show that DBOF obligated 80 percent of the 1994 capital asset program. This data indicates that the Department is either not executing the capital asset program or the data is inaccurate. Consequently, it is extremely difficult, if not impossible, for DOD management and the Congress to ascertain if the capital asset program is being executed in accordance with the budget presented to the Congress.

Since the Department has not convinced this committee that it has gained sufficient control over the capital asset program, the committee directs the Secretary to apply the allocation of capital budgets to higher priority areas within the capital asset account and report on the reallocation by March 1, 1996.

OVERPAYMENT COLLECTION DEMONSTRATION

The committee recommends a provision (sec. 363) that would authorize the Department of Defense to undertake a demonstration project to pay up to $5 million to a commercial firm to identify money due to the government because of underdeductions and overpayments made to vendors. Commercial sector data processing techniques would be used to compare purchase documents and agreements with vendor invoices to identify discrepancies in allowances, pricing, discounts, billback allowances, backhaul allowances, and freight routing instructions. The review would also search for duplicate payments and unauthorized invoice charges. Fees would be on a contingency basis at a rate of not more than 25 percent of the actual recoveries.

OFFSETTING COLLECTIONS

The Department of Defense is presently authorized to provide goods and services to non-federal entities, including individuals, businesses, political subdivisions, and foreign governments on a cost reimbursable basis. Monies collected from these non-federal sources and credited to expenditure accounts are referred to in the budget as "offsetting collections from non-federal sources." As such, these amounts are deducted from gross budget authority and outlays in arriving at the Department's topline budget numbers. In recent years, these collections have been averaging $8 to $11 billion per year.

The committee has a number of concerns over the potential for these collections to erode accountability and oversight of fiscal re-

sources made available to the Department's military accounts. For example:

(1) The amounts collected could be significantly different from the cost incurred by DOD. Where collections, or prices charged, are less than the Department's true cost, DOD is effectively giving away federal resources. Where collections are in excess of cost, these transactions provide resources that are outside congressional oversight and control.

(2) Discrepancies in excess of $1 billion have occurred in recent years between the budgeted amount of offsetting collections anticipated and the actual amount collected. These discrepancies raise doubts that the level of actual resources available to the Department is consistent with the intent of Congress.

To address these concerns, the committee directs the Department of Defense to submit a report to the Congress no later than March 31, 1996 that addresses: (1) the extent to which reimbursements equal the Department's cost, (2) the accuracy with which the budget is able to predict actual offsetting collections, (3) the amounts collected by object of sale and purchaser, and (4) recommendations to improve or remedy the condition.

EMERGENCY AND EXTRAORDINARY EXPENSES

As part of the agreed framework reached between the United States and North Korea in October 1994, the U.S. agreed to purchase and deliver heavy oil to North Korea. This shipment of oil for North Korea cost approximately $5 million and was financed out of the Department of Defense's budget. The committee finds the use of scarce DOD resources for the purpose of providing fuel oil or other assistance to North Korea, at a time when severe funding shortfalls are adversely impacting force readiness and modernization, difficult to understand.

The funds used for this purpose were drawn from authority granted under section 127 of title 10, United States Code to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds for emergency and extraordinary expenses for "any emergency or extraordinary expense which cannot be anticipated or classified." The committee views the use of this authority for the purpose of providing fuel oil to North Korea as inappropriate. Consequently, the committee recommends a provision (sec. 372) that would require prior notification by the Secretary of Defense, or the Secretary of a military department, to the congressional defense committees before any funds available to the Department of Defense for emergency and extraordinary expenses may be obligated or expended in an amount of $1,000,000 or more for any single transaction. Under current law, the Secretary of Defense submits a quarterly report when funds are expended under this authority.

INFORMATION TECHNOLOGY

PERFORMANCE MEASURES

Congress requested the Department of Defense to establish performance measures and management controls to ensure the maximum benefit from its automated information systems (AISs).

The committee believes that the Department is making an effort to improve its performance measures and management controls. However, the report required by section 381 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) does not convince the committee that DOD is fully committed to either measuring the benefit or ensuring maximum benefit from developing, modernizing, operating, and maintaining AISs. Consequently, the committee directs DOD to immediately re-evaluate the performance measures contained in its report, and develop acceptable, precise performance measures to effectively measure the benefits, in terms of dollars and contribution to mission performance, of implementing migration systems, establishing data standards, and improving processes. The committee directs the Secretary of Defense to submit the resulting new performance measures to Congress no later than January 15, 1996.

The committee also directs the Secretary to report by January 15, 1996 on how the Department plans to manage AIS activities to ensure that maximum benefits are received. In particular, the report should: (1) elaborate on each step of the management control process, (2) explain how the Department proposes to ensure that its performance data is of high quality, and (3) describe controls to ensure accuracy and consistency among system costs reported through DOD's Planning, Programming and Budgeting System, to the Major Automated Information System Review Council, and to the Congress via the biennial budget estimates.

OFF-THE-SHELF SYSTEMS

The committee believes that certain Department of Defense functional processes lend themselves to the use of off-the-shelf information technology. Two examples are functions performed by the Defense Printing Service and the armed services' public works centers. The committee directs that the Secretary of Defense conduct a review of using off-the-shelf systems for these functions and report to the committee by March 1, 1996 on other functional processes that can use existing private sector technology.

DEFENSE SUPPORT SERVICES REFORM

Over half of the defense budget—59 percent, or $160 billion in 1994—goes to support services, including information technology, travel administration, financial management, supply, printing, maintenance and other functions. During this period of constrained resources, the committee is concerned that every dollar spent in this area be spent wisely and efficiently and believes that two principal areas require attention.

First, while the military force structure has been reduced dramatically, reductions in funding for support services has not kept pace. For the period between fiscal years 1990 and 1996, funding

for support services will have been reduced approximately 13 percent, compared to a 28 percent decline in military end strength and a 59 percent reduction in procurement funding. Further reductions in support services are necessary.

Second, many of the processes and systems for providing support services are outmoded. Administration of routine employee travel, for example, is over five times more expensive in the DOD than in private corporations. Private sector management practices need to be adopted, and in some cases services should be performed by the private sector rather than by DOD personnel.

Reform is vitally necessary in both these areas in order to provide the best quality services at the lowest cost, and to free up funds for force modernization and readiness.

REENGINEERING TRANSPORTATION

Studies by DOD, various commissions, and the U.S. Transportation Command (USTRANSCOM) have reported that traffic management processes within the Department are fragmented and inefficient. These processes and automated systems were developed independently for each mode of transportation.

USTRANSCOM finances over $5.4 billion of transportation expenses per year. The overhead structure supporting defense transportation has an annual cost of $1.9 billion—$659 million of which is for managing common user transportation funded through the Defense Business Operations Fund (DBOF). The current structure of separate component command headquarters and a worldwide field structure has remained essentially unchanged since the formation of USTRANSCOM.

Transportation services that the military component commands have traditionally provided, such as port handling and intermodal transfers, are currently provided primarily by commercial carriers. Presently, about two-thirds of the Military Traffic and Management Command (MTMC) and the Military Sealift Command (MSC) common-user transportation personnel are located at headquarters and subordinate command offices performing primarily management support transportation functions. Less than one-third are located at port or terminal activities. Further, the MTMC offices, including headquarters, are co-located with or in close proximity to MSC offices whose shore-based staff add another 350 personnel to the overhead infrastructure. MTMC and MSC personnel typically do not handle cargo. Furthermore, the component commands frequently perform similar functions, albeit for the particular mode of transportation for which they are responsible. MTMC, MSC, and the Army Material Command (AMC) separately negotiate freight rates and process claims, often related to the same shipment. MTMC handles the truck or rail portion, MSC handles the ocean portion, and AMC handles the air portion. Duplication also exists among the administrative functions, such as general counsel, inspector general, public affairs, and civilian personnel.

The overhead charged to customers through DBOF and passed on to customers for this defense transportation system is costly. For example, a military customer is charged $3,292 for a shipment from New Jersey to Rotterdam, Netherlands, yet a commercial carrier charges $1,553 for the same shipment.

The committee believes immediate action is necessary to consolidate and streamline transportation operations in a manner that reduces the amount of transportation overhead passed on to transportation customers without adversely affecting mobilization capability. Therefore, the committee recommends a provision (sec. 315) that would reduce by $70 million the amount requested from the transportation accounts of the Defense Business Operations Fund.

REENGINEERING HOUSEHOLD MOVES

Every year the Department of Defense spends $1.1 billion moving 650,000 shipments of servicemember household goods and personal property. These figures do not include the hundreds of millions in costs incurred to process endless paperwork and financial transactions, and time spent in legal review for claims. In addition, $100 million is spent annually for damage claims, a rate of 23 percent compared to the industry rate of below 14 percent.

The committee is convinced that the DOD must pursue a higher level of service for the movement of household goods that begins to move toward greater reliance on commercial business practices. This approach must involve the use of simplified procedures and relieving the industry from government-unique terms, conditions and regulations. Despite the fact that military moves comprise the largest block of customers in the moving industry, DOD personnel continually receive second-class treatment.

Accordingly, the committee directs the Department of Defense to undertake a pilot program to implement commercial business practices and standards of service for its movement of service household goods and report on the status of implementation by March 1, 1996.

TRAVEL PROCESSING

The Department of Defense currently spends approximately $1 billion each year to administer temporary duty travel. For fiscal year 1993, Department travel processing costs were at least 30 percent of the direct travel cost—well above the 6 percent rate which is the industry benchmark.

A DOD task force has recommended various ways to improve travel processing, including adopting industry best practices. The Department has developed a model travel regulation that consolidates the various forms and orders currently used into a single "trip record," increases the threshold on requiring receipts for reimbursements from $25 to $75, and allows the traveler to hold the receipts. The Department also plans to use a contractor-based travel arrangement system to achieve cost-savings goals (such as reduced per diem expenses for long-term travel) without inflexible regulatory requirements. The Department expects to begin agency-wide application of its new travel policies and processes in fiscal year 1996.

Further, many of the regulatory changes needed to reengineer travel processing will require the concurrence or cooperation of other Federal agencies. The committee directs the Secretary of Defense to: (1) seek General Services Administration waivers to implement a variety of changes to civilian travel entitlements, including increasing the receipts threshold, (2) seek approval from the In-

ternal Revenue Service to institute new rules on expenditure receipts, (3) seek a waiver from the Office of Personnel Management to allow DOD to determine appropriate per diem for long-term travel, and (4) solicit the General Accounting Office's views on whether the new travel policies and procedures will satisfy federal internal control standards.

The committee urges these agencies to give prompt attention to these initiatives and make every effort to assist the Department in removing unnecessary and costly travel policies and procedures.

The committee further directs the Secretary of Defense to ensure that DOD travel arrangements made by contractor personnel (such as travel agents) are in the best interest of the government. In this regard, the Department should not enter into contracts requiring payments based on the percentage of the Department's travel costs—such as travel agent commissions determined as a percentage of passenger fares.

OUTSOURCING TRAVEL

It is increasingly common for private industry to outsource its travel function, particularly travel services. DOD travelers want a simpler approval mechanism and a way to make travel arrangements less time consuming and settlement of their travel claim before they received their charge card bill.

Therefore, the committee recommends a provision (sec. 365) that would establish a pilot program for evaluation of improved travel processing prototypes.

PROPERTY DISPOSAL OUTSOURCING

The Defense Reutilization and Marketing Service (DRMS), a unit of the Defense Logistics Agency, has been identified by the Department of Defense as a non-core, non-inherent government function. The DRMS has, therefore, been nominated for outsourcing by the Department of Defense and the National Performance Review. Furthermore, several studies by the General Accounting Office and others demonstrate that the property disposal functions of DRMS could benefit significantly from the application of "best commercial practices." These benefits would include higher reutilization rates, additional revenue from property sales, and reduced costs of operation.

Therefore, the committee recommends a provision (sec. 361) that would direct the Secretary of Defense to outsource the DRMS function to a qualified commercial entity not later than July 1, 1996. The committee estimates that this action may yield savings from $50 million to $100 million per year if the similar experiences of the Department of Treasury, whose property disposal functions were outsourced in 1985, are realized.

The Secretary is directed to provide the committee with a status report by January 15, 1996, on actions completed, underway, and planned.

CONTRACTING-OUT

The current process used to determine the cost of DOD-operated programs versus contracting out is cumbersome and inefficient.

These procedures are set forth in Office of Management and Budget Circular A–76 and supplemented by internal DOD regulations. To achieve greater return on constrained DOD resources, the committee is convinced that this process must be streamlined. The committee requests that the Secretary of Defense examine the following: (1) providing authority to contract out at the installation level, (2) using an improved comparison process instead of the lengthy, expensive and formal process now used, (3) raising to at least 50 the threshold for the number of employees affected that allows converting of employees to contract without placement, and (4) limiting the time available for administrative appeal. The Secretary of Defense should report to the committee by March 1, 1996 on the advisability of implementing these and other improvements to the contracting-out process.

INVENTORIES

The Defense Logistics Agency (DLA) and service inventory control points are responsible with ensuring that items are available to the operating forces when and where needed. DLA and the military services maintain about 600 million cubic feet of warehouse space for this purpose. Two-thirds of this space is occupied by secondary inventory—spare and repair parts, clothing, medical supplies and other items that DOD uses to support operating forces.

The General Accounting Office (GAO) reports that secondary inventory was responsible for an estimated volume of 218.8 million cubic feet in 1994. Secondary inventory items accounting for 130.4 million cubic feet, or 60 percent of the 218.8 million cubic feet, are not needed to satisfy current war reserve and operating requirements. While DOD has made significant progress in reducing secondary inventory, it still occupies about 360 million cubic feet and actual warehouse space of 420 millon cubic feet. Between fiscal years 1992 and 1995, DOD's operation and maintenance spending for secondary inventory decreased a modest 2.6 percent. In contrast, military force structure supported by the inventory has experienced dramatic decreases.

INVENTORY MANAGEMENT CONSOLIDATION

Currently, DLA manages nearly four million items at three inventory control points, while the armed services use 18 inventory control points to manage 600,000 items, spending approximately $900 million in labor costs to do so. Centralized purchasing of consumables could result in savings of ten to 15 percent. Section 391 of the bill would request DOD to review the consolidation of all inventory control points for storage and handling of inventory. Additional savings could also be realized through broader procurement leverage.

DEPOT LEVEL REPAIRABLE CONSOLIDATION

Additionally, the services retain redundant capabilities for storing and managing repairable items. Each service has hundreds of millions of dollars worth of high-value depot level repairables in unit allowances as "insurance stocks". The national and international transportation and DLA infrastructure has evolved to the

point where further consolidation of this function would result in further economies. Section 391 of the bill would also direct a review of consolidation of the depot level repairable inventory under the Defense Logistics Agency.

FUEL MANAGEMENT

Current levels of fuel held in war reserve are excessive given the current National Military Strategy. During Operation Desert Storm, DOD did not significantly access these stocks. Significant changes in the management, purchasing and transportation of DOD fuel could allow use of war reserve stocks that would better take advantage of fluctuating oil prices. Section 392 would provide authority for DOD to access war reserve stocks and realize significant savings.

ELECTRICITY

The Department spends approximately $2 billion each year to purchase electricity. The potential exists for reducing these costs by nearly 20 percent through deregulation and management improvements. Section 357 of the bill would direct the Secretary of Defense to implement procedures to purchase electricity from the most efficient source.

CONTRACT MANAGEMENT OVERSIGHT

The cost to conduct oversight of defense procurement is excessive with some estimates placing the cost at 15 to 20 percent of the acquisition cost. The General Accounting Office is requested to conduct a review of these added costs and report to the committee by April 1, 1996 with suggestions for reducing these costs.

GENERAL SERVICES ADMINISTRATION ADDED COSTS

The General Services Administration (GSA) is the executive agency for purchase of many of the consumable commodities used by the Federal Government. Department of Defense requirements account for 70 percent of the purchases made by GSA. Section 358 of the bill would authorize DOD to bypass GSA when it is more efficient to do so.

PRIME VENDOR DELIVERY

The Defense Logistics Agency (DLA) could achieve significant savings by more aggressively implementing best inventory practices used by the private sector. Leading private sector companies store very few items and rely on suppliers to manage inventory and to deliver parts when needed. Department of Defense prototypes demonstrate that significant savings can be realized in the purchase and distribution of personnel items such as clothing, food, and medical supplies. DLA should adopt similar improved practices for the $8 billion inventory of hardware items. Section 360 of the bill would require that the Secretary of Defense apply these prototypes nationwide and report to the committee on other areas where prime vendor delivery can achieve savings. The committee recommends a reduction of $180 million in anticipation of expected savings from reduced inventory purchase requirements.

TWO-YEAR OPERATION AND MAINTENANCE FUNDING

Because operation and maintenance funding expires at the end of the fiscal year, there are significant obligations in the fourth quarter of the year. The Department of Defense is requested to report to the congressional defense committees on areas where operation and maintenance funding should be authorized for two years in order to preclude this inefficient practice.

DFAS CONSOLIDATION

The Defense Finance and Accounting Service (DFAS) is consolidating the Department of Defense's financial operations. While the consolidation is expected to significantly reduce the workforce and the number of operating locations, it would still result in a larger and more costly infrastructure than necessary. GAO's preliminary analysis indicates that DOD could save an additional $3 billion (net present value) over 20 years by building a more appropriate smaller infrastructure. The smaller infrastructure would require about 3,500 fewer personnel and significantly reduce military construction costs below the planned DFAS requirements of $200 million for fiscal years 1997 and 1998.

DFAS is also standardizing its finance and accounting systems under the Corporate Information Management initiative. By selecting migration systems for development and enhancement, DFAS hopes to reduce its many legacy systems to a smaller number of standard systems by late 1996. However, DFAS is standardizing systems and consolidating its work locations without first reengineering its core business processes to eliminate non-value added activities and to improve others. This approach could perpetuate inefficient and unneeded processes, lock DFAS into automated ways of doing business that may not best serve future operations, and result in a larger, more costly information system infrastructure. In contrast, successful private and public organizations have first done extensive planning and analysis, benchmarked performance, eliminated non-value added activities, and changed business processes to fit future needs all prior to consolidating, developing, and installing new computer systems. Therefore, the committee recommends that DOD reassess its DFAS reorganization to better consider process reengineering and outsourcing opportunities.

LOGISTICS OUTSOURCING

The Army has employed the Logistics Civil Augmentation Program during deployments in support of peacekeeping and humanitarian missions. There is potential to replace some of the existing logistics infrastructure rendered redundant with the onset of contract operations for logistics support. The General Accounting Office is requested to provide a report by March 1, 1996 on those combat support and combat service support functions that can be performed using contracts and identify current organic logistics support functions that can be eliminated as a result of contract logistics.

OUTSOURCING PAYROLL

Presently, the Department of Defense is paying considerably more for its payroll and accounting functions than comparable expenses incurred in the private sector. It has been estimated that whereas the Department pays on the order of $14 per pay event, industry "best-in-class" payroll costs are on the order of $2 per pay event. As a result, the DOD Comptroller, in coordination with the Defense Finance and Accounting Service (DFAS) has been studying the efficacy of outsourcing payroll and accounting functions.

For example, in 1994 DFAS undertook a study of the non-appropriated fund (NAF) accounting and payroll activity at Red River Army Arsenal for the purpose of evaluating the feasibility of outsourcing this function. Currently, portions of payroll and accounting systems such as the Navy Exchange payroll and the Army's NAF time and attendance system are performed by the private sector. Section 368 of the bill would require the Secretary of Defense to conduct a pilot program on outsourcing for non-appropriated fund payroll. Section 362 of the bill would require the Secretary of Defense to submit a plan for outsourcing civilian payroll.

DOD PRINTING OPERATIONS

The Defense Printing Service (DPS) is the single manager for printing operations within the Department of Defense (DOD). The General Accounting Office reported that DPS has reduced its initial staffing by over 36 percent (3,694 to 2,343 personnel) and has eliminated nearly 100 of its original 350 printing-related facilities in an effort to achieve increased efficiencies.

DPS should continually review its operational efficiencies and retain only a minimal core capacity in-house to cover those printing-related requirements which cannot be satisfactorily or economically fulfilled by the private sector. Dollar savings for certain printing-related services are achievable through judicious use of commercial outsourcing, particularly for those printing and duplicating jobs exceeding $500.

The committee supports DPS' efforts to achieve a minimal in-house core capacity and to increase its commercial procurement of printing-related services. DPS currently satisfies about 50 percent of its requirements through commercial procurement—the remainder of the work is produced in-house. The committee directs that DPS increase its commercial procurement percentage to 70 percent in fiscal year 1996. Through the combination of downsizing and increased outsourcing, the committee recommends a $10 million reduction to the budget request for services of the DPS.

[In millions of dollars]

Service	*Reduction*
Army	$3
Navy	4
Air Force	3
Total	10

OUTSOURCING PRINTING

Information technology has changed a great deal in the last decade and the laws governing all aspects of government printing have become outdated. Competition in the civilian marketplace is significant and this has created a clear "buyer's market" with distinct opportunities for savings. Government agencies should be able to take advantage of this situation to procure printing and duplicating service for much less than is currently possible through the Government Printing Office. Under the current arrangement, government customers frequently pay for both the services of a contracted civilian printing vendor and the Government Printing Office overhead.

Section 359 of the bill would allow executive branch organizations to purchase printing and duplicating services directly from local printing vendors without going through the Government Printing Office. This flexibility is primarily intended to be used for the smaller, localized field printing and duplicating services that are provided the least economically by the Government Printing Office.

OUTSOURCING EXPERTISE

The committee recommends $10 million for the development of a curriculum at appropriate defense educational institutions to improve skills for outsourcing infrastructure support functions of the Department of Defense.

CIVILIAN EMPLOYEES

DOD CIVILIAN EMPLOYEE MANAGEMENT

The Department of Defense (DOD) has experienced considerable reductions in its civilian personnel workforce. In fact, the Department is bearing the brunt of the federal civilian workforce cuts. In fiscal year 1995, 98 percent of all federal government-wide civilian reductions will come from the DOD.

The current Full-Time Equivalents (FTE) ceilings do not provide the DOD with the necessary flexibility to allocate work based upon national security requirements and available funding. Commanders at the base and installation level must be able to react to changes in the mission as directed by DOD, higher headquarters and the Congress. In certain areas this downsizing has begun to affect vital services and functions such as equipment repair and maintenance. The Army's fiscal year 1996 budget funds Army depot maintenance at 80% of the requirement. According to the Army, it would have difficulty executing additional depot maintenance workload because the FTE ceilings limits the number of workyears available to perform depot maintenance. For fiscal year 1995, Congress increased Marine Corps depot maintenance funding and while the Marine Corps is executing this workload, it is not doing so in the most cost effective or efficient manner due to FTE limitations. Employees at Marine Corps depots are working large amounts of overtime—up to 28% of overtime is planned for the year.

FTE ceilings also are affecting the ability of installation commanders to perform functions and provide services. The practice of

assigning military personnel to accomplish work previously performed by civilian employees—what is known as borrowed military manpower—is increasing. Such a practice adversely impacts on individual and unit training, and harms quality of life. The Army is reporting a small rise in the number of units reporting adverse effects on training resulting from the use of military personnel in work previously performed by civilian employees. However, anecdotal information indicates that the level of special duty (which includes borrowed military manpower and troop diversions) may be higher than reported.

It is the committee's view that the size of the Department's civilian workforce should be based on funded workload, and not arbitrary personnel ceilings. Therefore, the committee recommends a provision (sec. 331) that would prohibit the use of full-time equivalent personnel ceilings in the management of DOD's civilian workforce, requiring instead that the Secretary of Defense make reductions in FTE positions only as a result of a reduction in funds available to the DOD. It also would require the Secretary of Defense to ensure that for each operation and maintenance budget activity, the necessary number, type and skill mix of personnel are employed by the DOD to carry out the functions funded within each budget activity.

ARMY CIVILIAN PERSONNEL MANAGEMENT

Last year's report on H.R. 4301, the National Defense Authorization Act for Fiscal Year 1995 (H. Rept. 103–499), directed the Army to implement recommendations of the Army Audit Agency concerning the Army Materiel Command (AMC) and the use of workload requirement techniques, based on mission requirements and priorities, to determine staffing requirements. The committee has recently received an update by the Assistant Secretary of the Army (M&RA) on the Army's implementation of these directions. The committee commends the Army on the progress that has been made in starting to implement a workload based management system for AMC.

The committee believes that the Army should expand the workload based management system to all major commands and infrastructure functions. In addition, workload priorities and manpower requirements resulting from the application of workload based manpower requirements should be directly integrated with all phases of the Army's planning, programming, budgeting, resource allocation and accounting processes. Finally, annual budget submittals should be based on a total Army civilian workforce plan, using workload-based staffing level justifications that meet Army Audit Agency scrutiny. The committee expects the Secretary of the Army to report to the congressional defense committees with each year's budget submittal and the progress made in implementing these recommendations.

OVERSEAS ALLOWANCES

The committee is aware that differences in overseas living quarters allowance policy among the military departments resulted in disparate treatment of living quarters allowances for appropriated and nonappropriated fund (NAF) employees overseas.

The DOD Inspector General has recommended that living quarters allowances for NAF employees be discontinued. It is estimated that these payments to NAF employees amount to over $18 million per year. Section 335 of the bill would require that the same procedures be used for living quarters allowances for appropriated fund civilians and NAF civilians. In the absence of this consistent policy, DOD should terminate the practice of paying living quarters allowances to NAF employees hired after the effective date of enactment of this Act and terminate payments for employees currently receiving this payment by October 1, 1996.

IG AND AUDITS

INSPECTORS GENERAL

The committee report on H.R. 4301, the Fiscal Year 1995 National Defense Authorization Act, (H. Rept. 103–499) noted major problems in the Navy Inspector General process and requested the DOD Inspector General to determine the effectiveness of the Air Force and Army inspectors general.

The DOD IG found that Army IGs do not exercise their full investigative potential. Because Army policy restricts the use of IG work to support disciplinary action, significant allegations of noncriminal wrongdoing are usually investigated by Army officers outside the IG organization who lack the investigative training and experience of the IGs.

The DOD IG also found that certain Air Force IG processes and organizations have inherent flaws that raised questions regarding the adequacy and impartiality of noncriminal investigations. The Air Force policy of "dual-hatting" the vice (or deputy) commander of an organization as the organization IG is of great concern to the committee. Assigning chain of command and IG roles to a single official raises conflict of interest and independence concerns that detract from the credibility of the Air Force IG system. Air Force service members hold strong negative perceptions of the "dual-hat" arrangement and may, as a result, hesitate to disclose wrongdoing to Air Force IGs.

Further, the Air Force IG practice of allowing organizations to examine allegations against themselves raises additional questions of investigative impartiality. Additionally, the Air Force IG reliance on "augmentee" (non-IG) investigators to investigate noncriminal matters is inefficient and produces investigative work that requires extensive remedial effort.

Despite statutory protection for whistleblowers, which is implemented by DOD and service regulations, the DOD IG found that Army and Air Force personnel continue to fear reprisal for communicating with an IG. The committee believes the services should strengthen efforts to educate service members and commanders regarding rights of and protection for those contacting an IG.

The DOD Inspector General is requested to report to the committee not later than March 1, 1996 on actions taken to correct these identified shortcomings including shortcomings in the Navy IG process.

CONSOLIDATION OF PROCUREMENT FRAUD WITHIN THE DOD IG

The consolidation of some or all of the elements of the Defense Criminal Investigative Organizations (DCIOs) into the Department of Defense, Inspector General (DOD IG) has been under consideration by this committee for several years. Currently, the Department has four DCIOs which include the Army Criminal Investigation Command (CID), the Naval Criminal Investigative Service (NCIS), the Air Force Office of Special Investigations (AFOSI), and the Inspector General Defense Criminal Investigative Service (DCIS).

In January 1995, the Department, pursuant to the statement of managers language accompanying the conference report on H.R. 5006, the National Defense Authorization Act for Fiscal Year 1993 (House Report 102–966), issued its advisory board report entitled ''The Report of the Advisory Board of the Investigative Capability of the Department of Defense.'' That report recommended responsibility for procurement fraud be consolidated in the Office of the DOD Inspector General. The committee agrees with this recommendation.

The committee believes that consolidation of the department's procurement fraud mission would:

(1) Reduce costs and increase efficiency by eliminating duplicative management and overhead structure in accordance with the National and Defense Performance Reviews.

(2) Eliminate approximately 135 of the 473 personnel spaces currently dedicated to, or in support of, the Military Criminal Investigative Organizations (MCIOs) major procurement fraud investigative mission at a cost savings of $65 million over the next six fiscal years.

(3) Eliminate redundancy in DOD operations by halting unnecessary participation of multiple Defense Criminal Investigative Organizations (DCIOs) in investigations.

(4) Eliminate confusion for the Department of Justice in coordinating investigative efforts by centralizing the investigative responsibility within one DOD agency.

(5) Save military personnel spaces by civilianizing the entire major procurement fraud investigative mission.

(6) Allow the MCIOs to focus limited resources on their primary missions—investigating general crimes, countering drug trafficking and use, and conducting installation level fraud operations, thus properly supporting local commanders.

(7) Ensure that all DOD interests are considered when investigations involve multiple service and Defense agency contracts.

Accordingly, the committee recommends a provision (sec. 382) that would direct the consolidation of the procurement fraud function of the MCIOs into the Office of the DOD Inspector General.

UNNECESSARY AUDITS

The committee understands that $160 million is spent annually in conducting audits of the armed services. Many of these audits are not productive, yielding little savings and resulting in few major findings. The committee believes that the armed services'

audit agencies should better prioritize their audit plans and limit their scope to high-return areas. Therefore, the committee recommends a reduction to the auditing functions of the military departments. Further, the committee directs the DOD Inspector General to conduct a review of the audit functions of the DOD in order to determine whether further reductions can be achieved by improvements in prioritizing audits, whether outsourcing can be achieved for major financial audits, and whether consolidation of audit functions can yield savings and improve effectiveness.

ENVIRONMENTAL ISSUES OF CONCERN

The committee notes that the Department of Defense has recently begun implementing a ''relative risk'' approach to cleaning up its contaminated sites. Under this approach, contamination at sites at each installation is categorized according to its relative risk to human health and the environment. Sites are characterized as posing either high, medium or low relative risk. High risk sites contain contamination at levels at least 100 times greater than the applicable standard. Medium risk sites contain contamination at least twice the applicable standard, and contamination at low risk sites is less than twice the acceptable standard.

This relative risk approach affords the Department of Defense several benefits. Classifying sites according to their relative risk allows the Department of Defense to prioritize among its sites so that cleanup action may be focused at the sites with the highest relative risk first. This approach also permits the department to give communities a sense of the relative priority of sites so that they may be better informed about when cleanup actions at which sites may be expected. Use of the relative risk approach enables the department to use a common, readily understandable method for categorizing contamination at sites across bases throughout the United States. Finally, the relative risk concept should assist the department in overcoming what has been one of the chief criticisms of the defense environmental restoration program—that it suffers from a lack of priority in its cleanup operations so that the worst sites are not necessarily cleaned up first.

With the significant reduction in funding for the Defense Environmental Restoration Account (DERA) that occurred in fiscal year 1995, and with further reductions foreseeable in the years ahead, the department's use of innovative approaches to cleanup activities is of critical importance. While recognizing that long term solutions lie largely in reforming the statutory scheme governing these activities, the committee applauds the department's use of the relative risk approach to environmental restoration and looks forward to reviewing the results of its implementation in the years ahead.

MORALE, WELFARE AND RECREATION ISSUES

PX AND COMMISSARY TRANSPORTATION

The committee estimates that approximately $100 million may be saved each year if commissaries and exchanges are allowed to contract directly using the most cost effective carriers for transportation of products overseas. This estimate includes savings in overhead costs currently paid to the Military Traffic Management Com-

mand (MTMC), the Military Sealift Command (MSC) and the Military Airlift Command and the use of foreign flag carriers for nonwarfighting related products. Therefore, the committee recommends a provision (sec. 345) that would provide this authority.

In order to effect these changes, the committee recommends $35 million in additional funding be provided to military exchanges and commissaries to cover the costs of implementing these changes and a reduction of $50 million from the second destination transportation authorizations of the military exchanges and commissaries that are currently provided to MTMC and MSC. In order to effect this reduction, the committee directs that $17.5 million be transferred from the Defense Business Operations Fund cash balance to the Army operation and maintenance account and that $7.5 million be transferred from the Defense Business Operations Fund cash balance to the Navy operation and maintenance account. The $25 million in savings to the Defense Commissary Agency should be used for improving services to commissary patrons. The Army and Air Force exchange service should serve as executive agent for implementing this initiative.

CREDIT

The Army and Air Force Exchange Service (AAFES), the Navy Exchange Services Command (NEXCOM) and the Marine Corps Exchange (MCX) have two credit programs. The Deferred Payment Plan is operated by AAFES and also used by the MCX. The NEXCARD credit program is operated by NEXCOM. In order to provide this credit, AAFES has borrowed nearly $1.2 billion from in-house sources and commercial banks, moving from a net invested position of $319 million to a net borrowed position of $731 million, while NEXCOM has borrowed $112 million, increasing its net borrowed position to $125 million.

The Department of Defense has taken positive action to ensure that there is proper financial oversight over this credit and that military patrons are not overextended in their amount of available credit. However, the committee believes that further action is required. The committee expects that, even with a reduced customer base, the morale, welfare and recreation (MWR) contribution must be maintained. To achieve this goal, a determined focus on maximizing the sale of goods and services to the exchange patron must be sustained. The committee is concerned that the extensive borrowing to finance the credit programs impedes the ability to offer a wider range of products and the capital required to modernize facilities.

Section 348 of the bill would provide for a uniform deferred payment plan for military exchanges and would outsource the management and operation of these credit functions when the same advantages can be gained through private sector contracting.

UNIFIED RESOURCES DEMONSTRATION

Section 346 of the bill would authorize the Department of Defense to undertake a demonstration project to merge appropriated and nonappropriated funds used in support of morale, welfare and recreation (MWR) activities. The committee believes there is considerable potential to reduce costs in personnel, contracting, oper-

ations, and resource management by taking this action. Also, there is the potential to gain greater visibility of total program costs and greater stability of MWR funding over the year.

EUROPE EXCHANGE DRAWDOWN

The drawdown of U.S. forces in Europe resulted in $130 million in costs to the Army and Air Force exchange service. Section 349 of the bill would provide $70 million to the Army and Air Force exchange service to cover these extraordinary expenses: $14.4 million in foreign national separation costs; $63 million in excess inventory; $40 million in accelerated depreciation; and $17 million in distribution expenses. Military exchanges already provide considerable offsets to appropriations that would otherwise have to be provided for military quality of life, contributing nearly $12 billion over the past ten years. Requiring military personnel and their families to pay the additional cost of the European withdrawal would be unfair. Without relief, military exchange patrons will be forced to pay higher prices for the expenses associated with the drawdown.

MILITARY RESALE AND MWR EFFICIENCIES

Several factors are affecting the military's resale and morale, welfare and recreation (MWR) programs that call for an examination of the potential for generating economies.

(1) Studies have demonstrated hundreds of millions of dollars can be saved by eliminating duplicate overhead functions.

(2) Force structure reductions and base closures are diminishing the economies-of-scale of separate entities that exist to manage the various business functions on military bases.

(3) Budget reduction alternatives could threaten the levels of subsidy provided for these programs, even to the extent of recommending privatization of major aspects of this program. The Department of Defense needs to demonstrate efficiency and insulate the benefits from threats.

(4) Private sector distribution systems and advancements in information technology provide the opportunity to link common functions to gain economies-of-scale. Also, the inception of off-base wholesalers and discount clubs have diminished the savings margins of these programs and action is needed to ensure that these savings margins are maintained.

(5) The resale and MWR entities perform many similar business functions. However, construction, distribution, employee benefits and data system development systems are fragmented, duplicative and wasteful. These entities pursue expensive separate and incoherent parallel tracks on initiatives. And, they continue to spend hundreds of millions of dollars on these duplicative systems.

(6) A number of studies have demonstrated the potential to gain economies-of-scale that will maximize revenue generating potential of this program that currently generates annual sales of $17 billion supported by approximately $2 billion in annual funding authorizations, and has the potential to generate more earnings to support quality of life programs.

Section 350 of the bill would require the Secretary of Defense to report on efficiencies that can be gained in the operation of these military MWR entities through application of technology, increased interface and cooperation among entities to regain economies-of-scale that have been lost through force structure reductions.

COMMISSARY CONSTRUCTION

The Department of Defense Inspector General has found significant problems with the methods used to determine the scope and size of commissary stores. The committee directs the Defense Commissary Agency and the Inspector General to reconcile any differences between them and report to the committee by November 15, 1995 on procedures that will be used to validate commissary construction requirements. The Defense Commissary Agency should seek the services of an independent needs assessment firm such as that currently used by other entities of the DOD morale, welfare and recreation program to assist in validating construction requirements.

DISTILLED SPIRITS DISTRIBUTION

Section 344 of the bill would require the computation of the full cost of the military exchanges in the distribution of distilled spirits. This should include but not be limited to product cost, freight, backhaul, credit, total handling, management, administration, depreciation, utilities, headquarters purchasing and logistics, inventory carrying, damages, store receiving and processing, accounting, quality assurance, safety and security, surcharges, and retail cost adjustments between receiver and shipper.

UNITED SERVICES ORGANIZATION

The United Services Organization (USO) which consists largely of volunteers, represents an efficient means by which to enhance the quality of life of U.S. servicemembers and their families, especially overseas. In 1994, at a cost of approximately $5.4 million of in-kind government assistance, the USO provided service programs in excess of $23 million, a multiplier of 4.3 in the application of private funds to public benefit. The committee encourages the Secretary of Defense to provide to the maximum extent the amount of in-kind assistance provided to the USO in the performance of its mission.

OTHER ISSUES

NORWAY PREPOSITIONING PROGRAM

The Marine Corps maintains the Norway Airlanded Marine Expeditionary Brigade (NALMEB), which consists of prepositioned combat equipment and supplies located in six separate facilities in Norway constructed specifically for the storage of an expeditionary battalion's equipment. The purpose of this program is to significantly reduce strategic airlift requirements, decrease force closure time, and to provide strategic options to rapidly reinforce the North Atlantic Treaty Organization's (NATO) northern flank. The prepositioned items include rations, vehicles, engineer equipment,

howitzers, medical supplies and equipment, repair parts and aviation ground support equipment. The value of the equipment and supplies is approximately $243 million and currently costs $9.4 million in operations and maintenance funds.

The committee believes that this program, although established and maintained to support a NATO requirement specified during the Cold War, may no longer be cost effective. The committee is concerned with the shortfalls in equipment throughout the Marine Corps and questions whether the equipment stored in the NALMEB could be used to alleviate these deficits. Therefore, the committee directs the Secretary of the Navy to conduct a study to determine the continued need to maintain the NALMEB and to what extent the current equipment stored in the NALMEB could be redistributed within the Marine Corps. This report should be provided to the congressional defense committees no later than December 31, 1995.

IMPACT AID

The Department of Education impact aid program provides supplementary funds to about 2,500 of 15,000 school districts nationwide. This aid is critical to the welfare of DOD families and the school districts that are affected by a major DOD presence. Proposals to eliminate impact aid payments or to restrict the categories of children who qualify a school district to receive school impact aid would have a major effect on the operating budgets of districts with a large number of eligible children.

Section 394 of the bill would authorize $58 million for educational assistance to local educational agencies where the standard for the minimum level of education within the state could not be maintained because of the large number of military dependent students or the effects of base realignments and closures.

MILITARY CLOTHING SALES STORES, REPLACEMENT SALES

The committee is aware that there are certain items of individual clothing and equipment for which service personnel are responsible to the government if the item is lost, damaged or destroyed. Such items include boots, canteens, shovels. Currently, the Army and Air Force have statutory authority under title 10, United States Code, to conduct in-kind replacement sales of individual equipment, but the Navy and Marines Corps have no such authority. Section 393 of the bill would provide the same statutory authority to the Navy and Marine Corps currently granted to the Army and Air Force, thereby creating parity throughout the Department of the Defense.

NAVY ENLISTED STORAGE SPACE

The committee understands that Navy enlisted personnel in paygrades E–1 to E–6 assigned to surface ships are provided no barracks space when in home port and thus remain on ship in cramped berthing spaces with limited storage space. As a result, these sailors must go without the amounts of civilian clothing, personal belongings and recreational equipment other sailors not assigned ship-board duty may have available. One suggested solution is to provide these sailors with additional storage space on shore.

The committee directs the Secretary of the Navy to report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives by March 31, 1996, on recommendations for improving this quality of life problem for shipboard junior enlisted personnel. The report should specifically examine, but not limited to, providing additional storage space for sailors on shore, with specific cost estimates and plans for implementing these recommendations.

PILOT PROJECT TO IMPROVE ECONOMIC ADJUSTMENT PLANNING

The committee is interested in the progress made to date, through previously authorized national pilot projects, in examining methods to improve the provision of economic adjustment and diversification assistance to adversely affected local governments. Five sites have already been selected and grants awarded to them. The committee believes that these efforts should continue and that worthwhile models can result from this initiative that will assist other communities in dealing with base closures or other defense economic dislocation. Therefore, the committee strongly urges the Secretary of Defense to ensure that adequate resources are extended to this effort so that it may yield the expected information to benefit other communities facing conversion and reuse planning challenges.

CONTRACTOR OPERATED PARTS STORES (COPARS)

The Contractor Operated Parts Stores (COPARS) program was initiated in the 1960's to improve the efficiency and effectiveness of maintenance management, improve vehicle readiness, and relieve the military from maintaining large inventories. The COPARS contractors maintain a centralized parts store located on Army, Navy and Air Force bases, that provide off-the-shelf parts for new and rebuilt high demand items to the vehicle maintenance unit. In the statement of managers accompanying the conference report on H.R. 4650, the Fiscal Year 1995 Defense Appropriations Act (H. Rept. 103–747), the General Accounting Office (GAO) was directed to conduct a cost comparison study of the COPARS program and alternative programs being considered to replace COPARS. However, rather than await the results of GAO's independent study of both approaches, the Army and the Air Force have eliminated or initiated efforts to eliminate COPARS.

Therefore, the committee recommends that pending completion of the independent GAO study and the evaluation of the results by Congress:

(1) The Army and the other military services suspend any and all efforts directed toward the elimination of COPARS and undertake an economic analysis to determine whether the conversions were economically justified.

(2) The Secretary of Defense should establish a clear and concise policy concerning COPARS.

AIR FORCE AUTOMATED MAINTENANCE DATA SYSTEMS

The committee is disappointed that the Administration failed to fund the modernization of the Air Force automated maintenance

data system. The migration from the Core Automated Maintenance System/Reliability and Maintainability Information System (CAMS/REMIS) and the Tactical Interim CAMS/REMIS (TICARRS) to the Integrated Maintenance Data System (IMDS), facilitated by the Base Level Systems Modernization (BLSM), is necessary to keep certain aircraft maintained at the most efficient and effective rate possible. Moreover, the Administration failed to fund TICARRS which supports F–15 and F–16 aircraft.

Pending the implementation of the migration plan and replacement of CAMS/REMIS/TICARRS, these systems should be maintained at a level of sufficiency to ensure that aircraft readiness is not compromised. Accordingly, the committee recommends the addition to the Air Force operation and maintenance account of $8.7 million to adequately maintain TICARRS without any further enhancements.

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LEGISLATIVE PROVISIONS

SECTION 311—CODIFICATION OF DEFENSE BUSINESS OPERATIONS FUND

This section would specify funds and activities to be included in the operation of the Defense Business Operations Fund (DBOF); would require separate accounting, reporting, and auditing of funds and activities within DBOF; specify charges for goods and services provided through DBOF; and establish procedures for accumulation of funds in DBOF.

SECTION 312—RETENTION OF CENTRALIZED MANAGEMENT OF DEFENSE BUSINESS OPERATIONS FUND AND PROHIBITION OF FURTHER EXPANSION OF FUND

This section would require the continuation of the centralized management of the Defense Business Operations Fund and would prohibit any further expansion of activities which are not managed through the centralized fund.

SECTION 313—CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH DEFENSE BUSINESS OPERATIONS FUND AND TERMINATION OF ADVANCE BILLING PRACTICES

This section would require that charges for the use of Department of Defense employees in the provision of goods and services under the Defense Business Operations Fund will include the pay and allowances of any military personnel and would exclude the costs for military personnel in designated critical functional areas. The section would also terminate advance billing practices within the Defense Business Operations Fund.

SECTION 314—ANNUAL PROPOSED BUDGET FOR OPERATION OF DEFENSE BUSINESS OPERATIONS FUND

This section would require that the annual proposed budget for the Defense Business Operations Fund include the amounts necessary to cover any previous year operating losses.

SECTION 315—REDUCTION IN REQUESTS FOR TRANSPORTATION FUNDED THROUGH DEFENSE BUSINESS OPERATIONS FUND

This section would require the reduction during, fiscal year 1996, of $70 million from the transportation accounts of the Defense Business Operations Fund below the level of these accounts in the budget request for fiscal year 1995.

SECTION 321—CLARIFICATION OF SERVICES AND PROPERTY THAT MAY BE EXCHANGED TO BENEFIT THE HISTORICAL COLLECTION OF THE ARMED FORCES

Section 2572(b) of title 10, United States Code, authorizes the service secretaries to exchange various items that are not needed by the military services, such as books, manuscripts, works of art, and historical artifacts, for similar items held by public or private individuals, institutions, or agencies for use in search, salvage, transportation, or restoration services which directly benefit the historical collection of the armed forces. This section would amend

the statute to make clear that the full range of modern historic preservation activity is included. Thus, items received by the service secretaries in exchange for items not needed by the military could be used for restoration, conservation, or preservation services, or for educational programs benefitting the armed forces' historical collection.

SECTION 322—ADDITION OF AMOUNTS CREDITABLE TO DEFENSE OPERATIONS AND MAINTENANCE ACCOUNTS

This section would permit the Secretary of Defense and the secretaries of the military departments to credit service operations and maintenance accounts with funds recovered from parties who are liable for a portion of the costs of environmental restoration activities (such as contractors, insurers, or sureties), regardless of the legal basis and source of the recovery.

SECTION 323—REPEAL OF CERTAIN ENVIRONMENTAL EDUCATION PROGRAMS

This section would repeal sections 1333 and 1334 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

SECTION 324—REPEAL OF LIMITATION ON OBLIGATION OF AMOUNTS TRANSFERRED FROM ENVIRONMENTAL RESTORATION TRANSFER ACCOUNT

Section 2703(b) of title 10, United States Code, authorizes the Secretary of Defense to transfer funds in the Defense Environmental Restoration Account (DERA) to other accounts within the Department of Defense. However, current law requires that funds so transferred may only be obligated or expended for environmental restoration purposes. Section 324 would repeal this restriction on the use of funds transferred from the DERA account so that transferred funds could be used for other, higher priority defense purposes. In particular, the committee has elsewhere specifically provided that certain DERA funds could be available for transfer to fund contingency operations, provided that the Secretary of Defense submits a request for supplemental appropriations to replenish the account. In the case of other transfers of funds from the DERA account, the committee directs the secretary to submit to the congressional defense committees a formal reprogramming request for each such proposed transfer.

SECTION 325—ELIMINATION OF AUTHORITY FOR TRANSFER AMOUNTS FOR TOXICOLOGICAL PROFILES

This section would amend section 2704 of title 10, United States Code, to preclude the Secretary of Defense from transferring funds from the Defense Environmental Restoration Account (DERA) to the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency for use in the preparation of certain toxicological profiles and health advisories. Under current law, the Secretary of Health and Human Services has the responsibility to prepare toxicological profiles with respect to hazardous substances identified by the Secretary of Defense on mili-

tary installations, and the Administrator of the Environmental Protection Agency has the responsibility to prepare health advisories with respect to such hazardous substances. The Secretary of Defense's responsibility to furnish data and personnel to assist the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency in carrying out the duty to prepare toxicological profiles and health advisories respectively would remain intact.

SECTION 326—SENSE OF CONGRESS REGARDING FUNDING FOR DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT

This section would express the sense of Congress that by the end of fiscal year 1997, the Secretary of Defense should make every effort to limit costs within the Defense Environmental Restoration Account (DERA) for administrative support and for studies and investigations of contaminated sites to no more than 20 percent of total funding for the account.

The committee notes that DERA funding was significantly reduced from the level requested during fiscal year 1995. The committee recommends a further reduction in fiscal year 1996 of $200 million below the President's request of $1.6 billion. The prospect is that funding for this account will continue to decline in the years ahead. Therefore, it is imperative that the department find ways to optimize cleanup efforts and minimize overhead and funding for studies. This section would encourage such efforts.

SECTION 331—MANAGEMENT OF DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

This section would prohibit the use of full-time equivalent personnel ceilings in the management of DOD's civilian workforce, and would allow the Secretary of Defense to make reductions in the number of full-time equivalent positions in the Department of Defense only as a result of a reduction of funds. The section would also require that the necessary number, type and skill mix of personnel are employed by the Department of Defense to carry out functions funded in each of the Operations and Maintenance budget activity groups.

SECTION 332—MANAGEMENT OF DEPOT EMPLOYEES

This section would prohibit the management of civilian employees of the Department of Defense involved in the depot-level maintenance and repair of material by any end strength constraint or limitation.

SECTION 333—CONVERSION TO PERFORMANCE BY CIVILIAN EMPLOYEES OF ACTIVE-DUTY POSITIONS

This section would require the Secretary of Defense to convert not less than 10,000 military positions to performance by civilian employees of the Department of Defense.

SECTION 334—PERSONNEL ACTIONS INVOLVING EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

This section would clarify the definition of nonappropriated fund instrumentality employees and permit the direct reporting of violations by nonappropriated fund employees to the Department of Defense Inspector General.

SECTION 335—TERMINATION OF OVERSEAS LIVING QUARTERS ALLOWANCES FOR NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES

This section would terminate the allowance for overseas living quarters for nonappropriated fund employees as of September 30, 1998.

SECTION 336—OVERTIME EXEMPTION FOR NONAPPROPRIATED FUND EMPLOYEES

This section would provide the same overtime exemption for nonappropriated fund employees as applies to other civilian employees of the Department of Defense.

SECTION 337—CONTINUED HEALTH INSURANCE COVERAGE

This section would extend continued health insurance coverage for certain employees affected by a force or realignment or installation closure under a base realignment and closure action.

SECTION 338—CREDITABILITY OF CERTAIN NAFI SERVICE UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

This section would increase the number of employees eligible to transfer between nonappropriated fund and appropriated fund morale, welfare, recreation programs without any significant loss of benefits.

SECTION 341—OPERATION OF COMMISSARY STORE SYSTEM

This section would revise the operation of the commissary store system, allow contracts with other agencies, and revise payments to vendor agents.

SECTION 342—PRICING POLICIES FOR COMMISSARY STORE MERCHANDISE

This section would reduce administrative costs in pricing commissary merchandise.

SECTION 343—LIMITED RELEASE OF COMMISSARY STORES SALES INFORMATION TO MANUFACTURERS, DISTRIBUTORS, AND OTHER VENDORS DOING BUSINESS WITH THE DEFENSE COMMISSARY AGENCY

This section would amend the procedures for the release of commissary stores sales.

SECTION 344—ECONOMICAL DISTRIBUTION OF DISTILLED SPIRITS BY NONAPPROPRIATED FUND INSTRUMENTALITIES

This section would amend the procedures for the determination of the economical distribution of distilled spirits.

SECTION 345—TRANSPORTATION BY COMMISSARIES AND EXCHANGES TO OVERSEAS LOCATIONS

This section would allow officials responsible for the operation of commissaries and military exchanges the authority to negotiate directly with private carriers for the most cost-effective transportation of supplies by sea without relying on the Military Sealift Command or the Military Traffic Management Command.

SECTION 346—DEMONSTRATION PROGRAM FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES AT CERTAIN MILITARY INSTALLATIONS

This section would require the Secretary of Defense to conduct a demonstration program at six military installations under which funds appropriated for the support of morale, welfare, and recreation programs at the installations are combined with nonappropriated funds available for these programs and treated as nonappropriated funds.

SECTION 347—CONTINUED OPERATION OF BASE EXCHANGE MART AT FORT WORTH NAVAL AIR STATION AND AUTHORITY TO EXPAND BASE EXCHANGE MART PROGRAM

This section would permit the continued operation of the base exchange mart at Fort Worth Naval Air Station, Texas and would allow for the expansion of the Base Exchange Mart Program.

SECTION 348—UNIFORM DEFERRED PAYMENTS PROGRAM FOR MILITARY EXCHANGES

This section would require the Secretary of Defense to use commercial banking institutions to fund and operate the deferred payment programs of the Army and Air Force Exchange Service and the Navy Exchange Service and to establish a uniform exchange credit program not later than January 1, 1997.

SECTION 349—AVAILABILITY OF FUNDS TO OFFSET EXPENSES INCURRED BY ARMY AND AIR FORCE EXCHANGE SERVICE ON ACCOUNT OF TROOP REDUCTIONS IN EUROPE

This section would require that the Secretary of Defense transfer not more than $70 million to the Army and Air Force Exchange Service to offset expenses incurred by the Army and Air Force Exchange Service on account of reductions in the number of military personnel in Europe.

SECTION 350—STUDY REGARDING IMPROVING EFFICIENCIES IN OPERATION OF MILITARY EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES AND COMMISSARY STORES

This section would require the Secretary of Defense to conduct a study, and report to Congress by March 1, 1996, regarding the manner in which greater efficiencies can be achieved in the operation of military exchanges, commissary stores, and other morale, welfare, and recreation activities.

SECTION 351—EXTENSION OF DEADLINE FOR CONVERSION OF NAVY SHIPS' STORES TO OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITIES

This section would extend, to December 31, 1996, the deadline for the conversion of all Navy ships's stores to operate as nonappropriated fund activities.

SECTION 357—PROCUREMENT OF ELECTRICITY FROM MOST ECONOMICAL SOURCE

This section would require the Secretary of Defense to procure electricity for use on military installations from the most economical sources.

SECTION 358—PROCUREMENT OF CERTAIN COMMODITIES FROM MOST ECONOMICAL SOURCE

This section would permit the Secretary of Defense to procure supplies from sources other than the General Services Administration if that source can provide the supplies at a lower cost.

SECTION 359—INCREASE IN COMMERCIAL PROCUREMENT OF PRINTING AND DUPLICATIONS SERVICES

This section would allow the Defense Printing Service to use private printing sources for up to 70 percent of its printing and duplication services.

SECTION 360—DIRECT DELIVERY OF ASSORTED CONSUMABLE INVENTORY ITEMS OF DEPARTMENT OF DEFENSE

This section would allow the Secretary of Defense to arrange for direct prime vendor delivery of food, clothing, medical and pharmaceutical supplies, automotive, electrical, fuel, and construction supplies for military installations throughout the United States.

SECTION 361—OPERATION OF DEFENSE REUTILIZATION AND MARKETING SERVICE

This section would require the Secretary of Defense to privatize the operation of the Defense Reutilization and Marketing Service not later than July 1, 1996.

SECTION 362—PRIVATE OPERATION OF PAYROLL FUNCTIONS OF DEPARTMENT OF DEFENSE FOR PAYMENT OF CIVILIAN EMPLOYEES

This section would require the Secretary of Defense to submit a plan to Congress not later than March 1, 1996 for the privatization of the payroll functions for civilian employees of the Department of Defense and to implement the plan not later than October 1, 1996.

SECTION 363—DEMONSTRATION PROGRAM TO IDENTIFY UNDERDEDUCTIONS AND OVERPAYMENTS MADE TO VENDORS

This section would require the Secretary of Defense to conduct a demonstration program at the Defense Personnel Support Center, Philadelphia, Pennsylvania, to evaluate the feasibility of using private contractors to audit accounting and procurement records of the Department of Defense.

SECTION 364—PILOT PROGRAM TO EVALUATE POTENTIAL FOR PRIVATE OPERATION OF OVERSEAS DEPENDENTS' SCHOOLS

This section would allow the Secretary of Defense to conduct a pilot program to assess the feasibility of using private contractors to operate overseas dependents' schools. The section would also require the Secretary to report to Congress the results of the pilot program and would include any recommendations as to which other schools in the defense dependents' education system should be operated by private contractors.

SECTION 365—PILOT PROGRAM FOR EVALUATION OF IMPROVED DEFENSE TRAVEL PROCESSING PROTOTYPES

This section would require the Secretary of Defense to conduct a pilot program including two prototype tests of commercial travel applications to improve management of the Department of Defense Travel System.

SECTION 366—PILOT PROGRAM FOR PRIVATE OPERATION OF CONSOLIDATED INFORMATION TECHNOLOGY FUNCTIONS OF DEPARTMENT OF DEFENSE

This section would require the Secretary of Defense to conduct a pilot program to test and evaluate the cost savings and efficiencies of private operation of all information technology services for the Department of Defense. The consolidation of 194 data centers to 16 will result in an estimated $500 million cost reduction. The further consolidation to approximately 4 or 5, while providing further cost reduction, will not provide as dramatic a saving. The private sector has already undergone major information technology consolidation and has at its disposal data processing centers far larger and more capable than those of the DOD. The private sector could provide full services to the DOD at a lower cost than any government-owned and/or operated facility.

SECTION 367—REPORT ON EFFORTS TO CONTRACT OUT CERTAIN FUNCTIONS OF DEPARTMENT OF DEFENSE

This section would require the Secretary of Defense to submit to Congress a report describing the advantages and disadvantages of using contractor personnel rather than civilian employees of the Department of Defense to perform functions that are not essential to warfighting missions.

SECTION 368—PILOT PROGRAM FOR PRIVATE OPERATION OF PAYROLL AND ACCOUNTING FUNCTIONS OF NONAPPROPRIATED FUND INSTRUMENTALITIES

This section would require the Secretary of Defense to conduct a pilot program to test and evaluate the cost savings and efficiencies of private operation of accounting and payroll functions of nonappropriated fund instrumentalities of the Department of Defense.

SECTION 371—QUARTERLY READINESS REPORTS

This section would require the Secretary of Defense to submit to Congress a quarterly report on military readiness.

SECTION 372—REPORTS REQUIRED REGARDING EXPENDITURES FOR EMERGENCY AND EXTRAORDINARY EXPENSES

This section would require the Secretary of Defense to submit a report of expenditures for emergency and extraordinary expenses on a quarterly basis. The section would also require notification to Congress prior to an obligation or expenditure of $1 million or more for these purposes.

SECTION 373—RESTATEMENT OF REQUIREMENT FOR SEMI-ANNUAL REPORTS TO CONGRESS ON TRANSFERS FROM HIGH-PRIORITY READINESS APPROPRIATIONS

This section would require the Secretary of Defense to submit reports to Congress on transfers of appropriated funds from specified budget activities.

SECTION 374—MODIFICATION OF NOTIFICATION REGARDING USE OF CORE LOGISTICS FUNCTIONS WAIVER

This section would modify section 1584 or title 10, United States Code concerning a notice to Congress of foreign national employee salary increases, and section 2464(b) of title 10, United States Code concerning a notification to Congress regarding the use of core logistics functions waiver.

SECTION 375—LIMITATIONS ON DEVELOPMENT OR MODERNIZATION OF AUTOMATED INFORMATION SYSTEMS OF THE DEPARTMENT OF DEFENSE PENDING REPORT

This section would prohibit the use of operations and maintenance funds to continue the modernization or development of an automated information system until 60 days after the Secretary of Defense reports to Congress on the proposed actions.

SECTION 376—REPORT REGARDING REDUCTION OF COSTS ASSOCIATED WITH CONTRACT MANAGEMENT OVERSIGHT

This section would require the Comptroller General of the United States to submit a report to Congress identifying methods to reduce the cost to the Department of Defense for the management and oversight of contracts in connection with major defense acquisitions programs.

SECTION 381—PROHIBITION ON CAPITAL LEASE FOR DEFENSE BUSINESS MANAGEMENT UNIVERSITY

This section would prohibit the use of Department of Defense funds to enter into a capital lease for the Defense Business Management University's Center for Financial Management Education and Training (CFMET). The committee questions DOD's non-competitive selection of this site at a time when suitable alternatives may be found at existing federal installations. The committee directs the Secretary of Defense to conduct a competitive selection of the site for CFMET which includes both government and private facilities.

SECTION 382—AUTHORITY OF INSPECTOR GENERAL OVER INVESTIGATIONS OF PROCUREMENT FRAUD

This section would provide the Inspector General of the Department of Defense responsibility for all investigations of procurement fraud with the Department of Defense.

SECTION 383—PROVISION OF EQUIPMENT AND FACILITIES TO ASSIST IN EMERGENCY RESPONSE ACTIONS

This section would provide training facilities, sensors, protective clothing, antidotes, and other materials and expertise of the Department of Defense to appropriate use by a federal, state, or local law enforcement agency in preparing for an emergency involving chemical or biological agents.

SECTION 384—CONVERSION OF CIVILIAN MARKSMANSHIP PROGRAM TO NONAPPROPRIATED FUND INSTRUMENTALITY AND ACTIVITIES UNDER PROGRAM

This section would provide for the operation of the Civilian Marksmanship Program as a nonappropriated fund instrumentality after October, 1995.

SECTION 385—PERSONNEL SERVICES AND LOGISTICAL SUPPORT FOR CERTAIN ACTIVITIES HELD ON MILITARY INSTALLATIONS

This section would allow the Department of Defense to provide additional services or logistical support in connection with preparing for, administering, and overseeing a jamboree at a military installation.

SECTION 386—RETENTION OF MONETARY AWARDS

This section would allow the Secretary of Defense to accept any monetary award given by a nongovernmental entity as an award in recognizing excellence or innovation in providing services or administering programs.

SECTION 387—CIVIL RESERVE AIR FLEET

This section would permit the Department of Defense to contract with Civil Air Reserve Air Fleet (CRAF) contractors to grant them limited use of military airfields at time less than full activation of the CRAF.

SECTION 388—PERMANENT AUTHORITY REGARDING USE OF PROCEEDS FROM SALE OF LOST, ABANDONED, AND UNCLAIMED PERSONAL PROPERTY AT CERTAIN INSTALLATIONS

This section would make permanent a demonstration program for the use of proceeds from the sale of lost, abandoned, and unclaimed personal property. These proceeds would be used to administer the sale of this property.

SECTION 389—TRANSFER OF EXCESS PERSONAL PROPERTY TO SUPPORT LAW ENFORCEMENT ACTIVITIES

This section would amend the transfer of excess personal property for the support of counter-drug activities to include law enforcement activities, including counter-drug activities.

SECTION 390—DEVELOPMENT AND IMPLEMENTATION OF INNOVATIVE PROCESS TO IMPROVE OPERATION AND MAINTENANCE

This section would direct that $350 million of operations and maintenance funding shall be available to the Secretary of Defense for the development or acquisition of information technologies and reengineered functional processes.

SECTION 391—REVIEW OF USE OF DEFENSE LOGISTICS AGENCY TO PERFORM CERTAIN DEFENSE-WIDE ACTIVITIES

This section would require the Secretary of Defense to conduct a review of the consolidation of depot-level repairables programs of the military departments under the management of the Defense Logistics Agency.

SECTION 392—SALE OF 50 PERCENT OF CURRENT WAR RESERVE FUEL STOCKS

This section would require the Secretary of Defense to reduce current war reserve fuel stocks of the Department of Defense by 50 percent.

SECTION 393—MILITARY CLOTHING SALES STORES, REPLACEMENT SALES

This section would provide to Navy and Marine Corps personnel the same authority that Army and Air Force personnel currently have to purchase replacement subsistence and other supplies.

SECTION 394—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIANS

This section would authorize the appropriation of $58 million for local educational agencies assistance in areas where there is an impact to school systems caused by dependents of members of the armed forces and Department of Defense civilians.

SECTION 395—CORE LOGISTICS CAPABILITIES AT DEPARTMENT OF DEFENSE DEPOTS

This section would, effective December 31, 1996, repeal sections 2466 and 2469 of title 10, United States Code and would require the identification of depot-level maintenance and repair capabilities within the Department of Defense, require the determination of core depot maintenance capabilities, and limit the performance of core workload in Department of Defense depots. The section would also provide that workload above core would be provided by the private sector and would require a competition between the public depots and the private sector for any above core workload that has less than two qualified sources in the private sector. In addition,

the section would permit the movement of core workload between the military departments.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

SUBTITLE A—ACTIVE FORCES

SECTION 401—END STRENGTHS FOR ACTIVE FORCES

The following table summarizes the committee's actions with regard to active duty end strengths:

ACTIVE FORCES END STRENGTH FOR FISCAL YEAR 1996

Service	Fiscal year 1995 program	Fiscal year 1996—		Change from fiscal year—	
		Request	Recommendation	1996 request	1995 program
Army	510,000	495,000	495,000	0	(15,000)
Navy	439,200	428,000	428,000	0	(11,200)
Marine Corps	174,000	174,000	174,000	0	0
Air Force	400,051	388,200	388,200	0	(11,851)
Total	1,523,251	1,485,200	1,485,200	0	(38,051)

SECTION 402—TEMPORARY VARIATIONS IN DOPMA AUTHORIZED END STRENGTH LIMITATIONS FOR ACTIVE DUTY NAVY AND AIR FORCE OFFICERS IN CERTAIN GRADES

This section would authorize a temporary increase in the number of officers who can serve on active duty in the grade of major within the Air Force and in the grades of lieutenant commander, commander, and captain within the Navy until September 30, 1997. The committee fully expects the Secretary of Defense to provide a proposal to restructure the grade limits currently set in law for all the services in time for the committee to address a permanent solution in the Defense authorization bill for fiscal year 1997.

SUBTITLE B—RESERVE FORCES

SECTION 411—END STRENGTHS FOR SELECTED RESERVE

The following table summarizes the committee's actions with regard to selected reserve end strengths:

SELECTED RESERVE END STRENGTH FOR FISCAL YEAR 1996

Service	Fiscal year 1995 program	Fiscal year 1996—		Change from fiscal year—	
		request	Committee recommendation	1995 request	1995 program
ARNG	387,000	373,000	373,000	0	(14,000)
USAR	242,000	230,000	230,000	0	(12,000)
USNR	100,710	98,608	98,608	0	(2,102)
USMCR	41,000	42,000	42,000	0	1,000
ANG	115,581	109,458	109,458	0	(6,123)
USAFR	78,706	73,969	73,969	0	(4,737)
Coast Guard	8,000	8,000	8,000	0	0
Total	972,997	935,035	935,035	0	(37,962)

SECTION 412—END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

The following table summarizes the committee's actions with regard to the end strengths of reserves on active duty in support of the reserves:

FULL TIME SUPPORT END STRENGTH FOR FISCAL YEAR 1996

Service	Fiscal year 1995 program	Fiscal year 1996—		Change from fiscal year—	
		request	Committee recommendation	1996 request	1995 program
ARNG	23,650	23,390	23,390	0	(260)
USAR	11,940	11,575	11,575	0	(365)
USNR	17,510	17,490	17,490	0	(20)
USMCR	2,285	2,285	2,285	0	0
ANG	9,098	9,817	9,817	0	719
USAFR	648	628	628	0	(20)
Total	65,131	65,185	65,185	0	54

SECTION 413—COUNTING OF ACTIVE COMPONENT PERSONNEL ASSIGNED IN SUPPORT OF RESERVE COMPONENT TRAINING

This section would clarify the requirement of section 414(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190). That provision required the Secretary of the Army to assign at least 2,000 active duty personnel as advisers in connection with organizing, administering, recruiting instructing or training to early deploying units of the selected reserve.

The Army expressed concern that section 414(c) could be interpreted to require the direct assignment of active duty advisers to selected reserve units. To address the Army's concern, this section, as amended, would permit active duty personnel assigned to active duty units that had been and continue to be established for the principal purpose of providing dedicated training support to reserve component units to be counted toward the required number of advisers.

SUBTITLE C—MILITARY TRAINING STUDENT LOADS

SECTION 421—AUTHORIZATION OF TRAINING STUDENT LOADS

The committee recommends approval of the training student loads contained in the President's budget.

SUBTITLE D—AUTHORIZATION OF APPROPRIATIONS

SECTION 431—AUTHORIZATION FOR APPROPRIATIONS FOR MILITARY PERSONNEL

This section would authorize $68,951,663,000 to be appropriated for military personnel, an increase of $255,000,000 from the budget request.

SECTION 432—AUTHORIZATION FOR INCREASES IN ACTIVE DUTY END STRENGTHS

As discussed in section 521 of the bill, a provision to establish end strength floors for each of the armed services, the committee is concerned that declining defense budgets have caused military managers, both uniformed and civilian, to advocate end strength levels that are inadequate to fully meet national security requirements. The resulting force structure is consequently limited and unable to provide the full range of capability in sufficient depth to meet all the challenges confronting the nation. Commitment of U.S. forces to operations other than war over the last two years (including deployments to Iraq, Bosnia, Macedonia, Somalia, Rwanda, and Haiti) have caused operations tempo to increase for select units. When added to the operations and training routinely conducted during peacetime, there are elements of the force in each of the services that experience personnel tempo at a level that unduly stresses service members and families.

For example, deployments within the 2d Marine Division were up 10.5 percent in 1994, and 60 percent of the division was deployed in August 1994. During 1994, it was routine for 50 percent of the Navy to be at sea at any given point of time. Within the Air Force, 13 of 21 aircraft types exceeded the goal of limiting deployment to less than 120 days a year and both the A–10 and the Airborne Warning and Control System (AWACS) aircraft exceeded 180 days of deployment in 1994. Operations other than war resulted in increased stress on Army light infantry units and combat service support units with limited representation in the active force to include water purification and civil affairs units. The committee also notes that the Army is the only service that carries an operating strength deviation which would indicate a need for additional end strength to fulfill its minimum mission requirements.

The committee believes that the armed services require authorization to apply additional end strength to select units and mission areas in an effort to reduce excessive personnel tempo rates. Accordingly, this section would authorize $112 million in additional funds to be applied to increase military personnel end strengths within the Department of Defense above those levels requested by the President's budget. The committee expects the Secretary of Defense to prioritize end strength needs within the Department.

TITLE V—MILITARY PERSONNEL POLICY

SUBTITLE A—OFFICER PERSONNEL POLICY

SECTION 501—AUTHORITY TO EXTEND TRANSITION PERIOD FOR OFFICERS SELECTED FOR EARLY RETIREMENT

This section would authorize the Secretaries of the military departments to defer the date of retirement for officers selected for early retirement for up to 90 days to avoid personal hardship or for other humanitarian reasons.

SUBTITLE B—MATTERS RELATING TO RESERVE COMPONENTS

SECTION 511—MILITARY TECHNICIAN FULL-TIME SUPPORT PROGRAM FOR ARMY AND AIR FORCE RESERVE COMPONENTS

The committee believes that military technicians are critical to the training and readiness of the Army and Air Force reserve components, as well as being crucial to an increased reliance on the reserve components to substitute for active component units being stressed by high operations tempos. The committee also believes that recent broad, unfocused reductions in Department of Defense civilian manpower have had a severe impact on military technicians, and therefore on overall readiness.

This section, therefore, would restore military technician end strength to nearly the fiscal year 1995 level and require that the Secretary of Defense, in the future, manage military technicians by annual end strength. This section would also prohibit military technicians in certain high priority units and activities, but not those in management-level headquarters, from being subject to broad civilian personnel reductions. In addition, this section would require the Secretary of Defense, within six months of enactment, initiate measures to consolidate and streamline management-level headquarters at the National, regional, and state level in the Air Force and Army Reserve and National Guard. The Secretary would be permitted to retain up to 95 percent of any military technician positions declared excess to the reorganized headquarters, if those positions were reallocated to certain high priority units. This section would also require that, after the date of enactment, only dual-status technicians be hired.

SECTION 512—MILITARY LEAVE FOR MILITARY RESERVE TECHNICIANS FOR CERTAIN DUTY OVERSEAS

This section would authorize military civilian technicians an additional 44 workdays of leave without loss of pay and other benefits for periods the member is serving on active duty without pay while participating in noncombat operations outside the United States, its territories and possessions.

SECTION 513—REVISIONS TO ARMY GUARD COMBAT REFORM INITIATIVE TO INCLUDE ARMY RESERVE UNDER CERTAIN PROVISIONS AND MAKE CERTAIN REVISIONS

This section would change the requirement of section 1111 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102–484). As revised, the section would require the Army to provide annually at least 150 officers and 1,000 soldiers with at least two years prior active duty experience to national guard units. The committee expects the Army to permit approximately 225 officers to separate in 1996 and 1997 and no less than 150 officers per year thereafter to serve in the Army National Guard.

This section would also expand the requirements of sections 1112(b), 1113, 1115, 1116, and 1120 of the Army National Guard Combat Readiness Reform Act of 1992 to the Army selected reserve.

SECTION 514—ROTC SCHOLARSHIPS FOR THE NATIONAL GUARD

This section would authorize the Secretary of the Army to redesignate ongoing scholarships with the agreement of the ROTC cadet involved as scholarships provided to an individual to be appointed for service in the Army National Guard and make other technical changes.

SECTION 515—REPORT ON FEASIBILITY OF PROVIDING EDUCATION BENEFITS PROTECTION INSURANCE FOR SERVICE ACADEMY AND ROTC SCHOLARSHIP STUDENTS WHO BECOME MEDICALLY UNABLE TO SERVE

This section would require the Secretary of Defense to conduct a study on the need and feasibility of establishing a no cost to the government disability insurance plan for service academy and Reserve Officers' Training Corps scholarship students. Such a plan would provide continued financial assistance for tuition and other educational expenses after becoming medically disqualified for military service.

SECTION 516—ACTIVE-DUTY OFFICERS DETAILED TO ROTC DUTY AT SENIOR MILITARY COLLEGES TO SERVE AS COMMANDANT AND ASSISTANT COMMANDANT OF CADETS AND AS TACTICAL OFFICERS

This section would require that, upon the request of any of the six senior military colleges (Texas A&M University, Norwich College, The Virginia Military Institute, The Citadel, Virginia Polytechnic Institute and State University and North Georgia College), the Secretary of Defense shall detail active duty officers to serve as the commandant or assistant commandant of cadets and as tactical officers at the institution.

The committee takes this action in order to reinforce the longstanding special relationship that has existed between these schools, the Army and the other services. Recent modifications in policy by the Army suggest a change in that special relationship which is detrimental to the schools and the services. The committee feels strongly that active-duty officers serving as commandants and tactical officers not only provide role models for emulation by cadets, but they, as mentors and trainers, also directly influence in unique and positive ways the attitudes and ideas of cadets. The committee's belief in the value of an active duty officer serving as the commandant of cadets was reinforced by the testimony of the service's deputy chiefs of staff for personnel.

SECTION 517—MOBILIZATION INCOME INSURANCE PROGRAM FOR MEMBERS OF THE READY RESERVE

The committee is aware of the many financial hardships endured by reserve members involuntarily called to active duty during the Persian Gulf War. The committee recognizes the need for income protection for mobilized reserve members.

This section would establish an income protection insurance plan for ready reserve members. The plan would provide a $1,000-per-month base benefit to reservists involuntarily called to active duty in support of an operational mission during a period of war or national emergency as declared by the President. The plan would be

financed by premiums paid by individual members. Members would be automatically enrolled for the base benefit unless the member declines to participate, selects a lower benefit of half the basic benefit, or selects a greater amount up to a maximum of $5,000 per month at additional cost.

SUBTITLE C—MATTERS RELATING TO FORCE LEVELS

SECTION 521—FLOOR ON END STRENGTHS

The committee has observed with increasing alarm the drawdown of the armed forces since the Persian Gulf War and is now of the view that the current force structure is not adequate to fully support the national security strategy to fight and win two near simultaneous major regional contingencies as envisioned in the October 1993 Report on the Bottom Up Review. In addition to direct force-structure reductions of 30 percent to Army divisions, 32 percent to Navy battleforce ships, and 36 percent to Air Force attack/fighter aircraft, combat capability has been further eroded by declining defense budgets that have left funding for unit readiness wanting and equipment modernization wholly inadequate. Despite the testimony of numerous Department of Defense witnesses that the force cannot be reduced further, the committee continues to see evidence that the Secretary of Defense is contemplating additional force-structure reductions below the levels cited as the minimums necessary to support the strategy outlined in the Report on the Bottom Up Review. Accordingly, the committee believes that action must be taken to preempt any further reductions to the armed forces and thereby minimize further risk to the security of the nation.

Therefore, this section would establish permanent end strength levels beginning in fiscal year 1996. The provision would preclude any reductions below the specified end strengths until the expiration of a six-month period beginning on the date of submission of notice of the desired lower end strengths and the justification for those levels. Because the committee considers the end strengths delineated in this section to be inadequate to fully meet the security interests of the nation, the committee recommends, in section 432 of this bill, additional funding to be used to increase end strength levels within the military departments.

SECTION 522—ARMY OFFICER MANNING LEVELS

This section would require that beginning in fiscal year 1999 and thereafter, the annual Army end strength provide for sufficient officers to meet at least 90 per cent of active Army manpower requirements. The committee takes this action because it considers the 83 percent officer manning levels projected for fiscal year 1996 to be inadequate.

SECTION 523—COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY END STRENGTH ALLOCATIONS

This section would require the comptroller general of the United States to determine the extent to which the Army is able to fully man the combat and support forces required to carry out the national security strategy and operations other than war for fiscal

years 1996 through 2001. The committee takes this action because it has learned that only now, more than two years after the Secretary of Defense directed the Army to achieve the force levels specified in the Bottom Up Review (BUR), is the Army starting a formal analysis to structure the force constrained by a 495,000 active-component end strength to meet BUR requirements.

In order that the committee fully understand the Army analytical process, known as the Total Army Analysis (TAA), the section would require that the Secretary of the Army provide the comptroller general full access to all materials used in the TAA even while the process is underway. In addition, because the committee understands that the Army has been directed to reduce end strength further to 475,000 by fiscal year 1998, the section would require the comptroller general to report to the committee the results of each TAA conducted through fiscal year 2001.

SECTION 524—MANNING STATUS OF HIGHLY DEPLOYABLE SUPPORT UNITS

The General Accounting Office (GAO) identified in a March 1995 report that the Army staffs support forces at 10 to 20 percent below their authorized levels. The GAO expressed concern that the stress of peacetime operations has been exacerbated by the Army practice of increasing manning within support units with personnel from other units just prior to deployment to ensure minimum personnel readiness. This practice is referred to as cross-leveling. The committee is aware of similar cross-leveling practices within the Marine Corps and is concerned that other services may intentionally staff high-priority support units at less than 100 percent of authorized strengths.

Accordingly, this section would direct each of the Secretaries of the military departments to conduct a study to determine whether high-priority support units that would deploy early in a crisis are, as a matter of policy, manned at less than 100 percent of their authorized strengths. The provision would further require the Secretaries of the military departments to report not later than September 30, 1996 on the findings of their studies to include the number of high-priority support units by type, the level of manning within those units, and either the justification for manning of less than 100 percent or the status of action to correct the manning deficiency.

SECTION 525—SENSE OF CONGRESS CONCERNING PERSONNEL TEMPO RATES

This section would express the Sense of Congress that the Secretary of Defense should continue to improve the Department's personnel tempo management techniques so that all personnel can expect a reasonable personnel tempo rate.

SUBTITLE D—AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE

SECTION 541—REFERENCES TO UNIFORM CODE OF MILITARY JUSTICE

This section would clarify that amendments or repeals contained in this subtitle are to Chapter 47 of title 10, United States Code.

SECTION 542—FORFEITURE OF PAY AND ALLOWANCES DURING CONFINEMENT BY SENTENCE OF COURT-MARTIAL

The committee is concerned that some military service members continue to receive active duty pay and allowances while serving extended prison sentences. This section would require forfeiture of pay and allowances during a period of confinement resulting from the sentence of a court-martial. The percentage of pay and allowances forfeited shall be the maximum percentage that the court-martial could have directed as part of the sentence. The provision would also authorize the convening authority to waive some or all of the forfeiture and provide such monies to dependents of the service member.

SECTION 543—REFUSAL TO TESTIFY BEFORE COURT-MARTIAL

This section would amend section 847(b) of title 10, United States Code, by removing the limitation on punishments which may be imposed by a federal district court upon a civilian witness who refuses to appear or testify before a court-martial.

SECTION 544—FLIGHT FROM APPREHENSION

This section would amend section 895 of title 10, United States Code, to clarify that flight from apprehension is an offense cognizable under the Uniform Code of Military Justice.

SECTION 545—CARNAL KNOWLEDGE

This section would make two minor changes to section 920 of title 10, United States Code. First, the section would make the crime of carnal knowledge gender neutral, bringing Article 120 of the Uniform Code of Military Justice into conformity with the spirit of the Sexual Abuse Act of 1986 (Public Law 99–646). Second, this section would allow an accused charged with carnal knowledge to plead the affirmative defense of mistake of fact. This change would cause the military offense of carnal knowledge to more closely parallel the analogous federal civilian criminal statute.

SECTION 546—TIME AFTER ACCESSION FOR INITIAL INSTRUCTION IN THE UNIFORM CODE OF MILITARY JUSTICE

This section would amend section 937(a) of title 10, United States Code, by lengthening the time period within which training in the Uniform Code of Military Justice must be provided to new enlistees from six to fourteen days. The provision would thus afford the services greater flexibility in providing this important and necessary training.

SECTION 547—PERSONS WHO MAY APPEAR BEFORE THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

This section would amend section 944 of title 10, United States Code, to provide that no person may appear before the Court of Appeals for the Armed Forces (whether on a brief or in person), unless that person is an attorney admitted to practice before the court, is authorized to appear before the court in a particular case, or is a third-year law student who has been certified for practice

under a state rule for the practical training of law students. In the latter cases, such students would only be authorized to appear before the court as an amicus curiae.

This provision responds to a recent case in which the Court of Appeals for the Armed Forces authorized undergraduate students to submit briefs and present oral argument before the court. Providing undergraduate students with educational experiences in the law is a laudable goal. However, the Court of Appeals for the Armed Forces is a federal court, and as such it must adhere to high judicial standards of practice and procedure that befit the court's stature and preserve its dignity. Allowing undergraduate students to appear before the court is inconsistent with these standards and sets an ill-advised precedent. Section 547 would ensure that in the future only properly licensed attorneys and third-year law students who are in state-approved law school training programs may appear before the court.

SECTION 548—DISCRETIONARY REPRESENTATION BY GOVERNMENT APPELLATE DEFENSE COUNSEL IN PETITIONING SUPREME COURT FOR WRIT OF CERTIORARI

This section would amend section 870 of title 10, United States Code, to provide military appellate defense counsel with the discretion to assist an accused in the preparation of a petition for a writ of certiorari before the United States Supreme Court. Under current law, appellate defense counsel must represent an accused in petitioning the Supreme Court upon the accused's request, regardless of whether that person's case is free from legal error or whether the only errors are those specified by the accused. Appellate defense counsel are in the best position to make judgements about whether a case raises issues of sufficient import that a petition for a writ of certiorari is warranted, and section 548 would vest counsel with the discretion to submit such a petition.

SECTION 549—REPEAL OF TERMINATION OF AUTHORITY FOR CHIEF JUSTICE OF THE UNITED STATES TO DESIGNATE ARTICLE III JUDGES FOR TEMPORARY SERVICE ON COURT OF APPEALS FOR THE ARMED FORCES

Section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189) revised the charter of the then Court of Military Appeals, now renamed the Court of Appeals for the Armed Forces. Among other things, that section provided that Article III judges could sit on the Court of Military Appeals when a judge of the court was temporarily unavailable. A five year "sunset" provision was included to ensure that the provision would operate in a manner consistent with the Article III judiciary and to allow for further formal review.

Although the instances in which Article III judges have served on the Court of Appeals for the Armed Forces have been infrequent, their periodic service appears to have benefitted the court without unduly hindering the ability of these judges to fulfill their regular responsibilities. In recognition of this fact, section 549 would repeal the five year limitation on the authority of Article III judges to serve temporarily on the Court of Appeals for the Armed Forces, thus making this authority permanent.

SECTION 550—TECHNICAL AMENDMENT

This section would amend section 866 of title 10, United States Code, to change an outdated reference to the Courts of Military Review to a proper reference to the Courts of Criminal Appeals.

SUBTITLE E—OTHER MATTERS

SECTION 551—EQUALIZATION OF ACCRUAL OF SERVICE CREDIT FOR OFFICERS AND ENLISTED MEMBERS

This section would bring the criteria for accrual of service credit for officers in line with the criteria set in law for enlisted members.

SECTION 552—EXTENSION OF EXPIRING PERSONNEL AUTHORITIES

This section would extend authorities that provide for the appointment, promotion, and retirement of reserve officers and the promotion of certain officers on active duty in the Navy.

SECTION 553—INCREASE IN EDUCATIONAL ASSISTANCE ALLOWANCE WITH RESPECT TO SKILLS OR SPECIALTIES FOR WHICH THERE IS A CRITICAL SHORTAGE OF PERSONNEL

This section would authorize increased rates of educational assistance allowance for reserve members in specialties or skills experiencing critical shortages.

SECTION 554—AMENDMENTS TO EDUCATION LOAN REPAYMENT PROGRAMS

This section would authorize the repayment of loans that were made under the William D. Ford Federal Direct Loan Program.

SECTION 555—RECOGNITION BY STATES OF LIVING WILLS OF MEMBERS, CERTAIN FORMER MEMBERS, AND THEIR DEPENDENTS

This section would amend title 10, United States Code, to ensure that advance medical directives prepared by members of the armed forces, their spouses, or other persons eligible for legal assistance under section 1044 of title 10 are recognized as valid by states, even though a directive might not meet the precise requirements of the state where the service member, spouse, or other person is located at the time of incapacitation. Advance medical directives indicate a person's desire concerning medical care to be received if that person is incapable of making health care decisions or gives another person the authority to make those decisions under those circumstances.

SECTION 556—TRANSITION COMPENSATION FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES SEPARATED FOR DEPENDENT ABUSE

This section would require the Secretary of Defense to retroactively provide compensation to certain eligible dependents inadvertently excluded from the program.

SECTION 557—ARMY RANGER TRAINING

The committee believes that a shortage of assigned officer personnel contributed to the deaths of four Ranger students in a tragic

incident that occurred February 15–16, 1995, during the Florida phase of the Army Ranger course.

While the Army's report of investigation into the deaths did not directly acknowledge the link, the report concluded that failure in supervision and judgement, lack of situational awareness and lack of control placed Ranger students in water too cold, too deep and for too long to allow for safe operations. In addition, the report, noting that only eight of the 26 required officer instructor/trainers were assigned to the Florida phase, concluded that no officer platoon trainer positions were filled; that officers only occasionally accompanied Ranger student training in the field; and that officer supervision of standards and policies was limited by officer strength.

Subsequent to the release of the Army investigative report, the committee learned that at the time of the accident the Army had 45 officers assigned to the Ranger training brigade, just 37 per cent of the 122 required. This significant disparity between officers required and assigned resulted from drastic Army-wide reductions from 1990 to 1995 in the number of officers authorized and available to support training and operations. As a result, despite the fact that the numbers of students being trained by the brigade remained relatively stable from 1990 to 1995, officers went from being able in 1990 to accompany Ranger student patrols in the field daily, to a situation in 1995 where it was exceptional for an officer to be with student patrols.

The committee is also aware that as early as June 1993, and several times subsequently, the commander of Fort Benning elevated his concerns to the commanding general, Training and Doctrine Command, linking officer shortages to increased risk to Ranger student safety. Although these efforts resulted in some adjustments to the number of officers assigned, the Army failed to take substantive efforts to redress the officer shortages. As a matter of Army-wide officer allocations policy, Fort Benning and the Ranger Training Brigade continued to take a so-called "fair share" of officer shortages. As a matter of fact, the corrective action recommended by the Army investigative report would have required the Fort Benning commander to have found from his already constrained resources additional officers to assign to the Ranger Training Brigade.

The committee rejects that solution, believing strongly that such an approach to solving the officer shortages at the Ranger Training Brigade would only continue the shortsighted "fair share" approach without significantly reducing student risk or increasing training safety in what all acknowledge to be a high stress, high risk training situation.

For these reasons, the committee directs that the Secretary of the Army assign to the brigade all the manpower required, as established by Army manpower documents, to carry out the training mission safely and effectively. To accomplish this goal, this section would establish a baseline number of officers and enlisted personnel which would have to be assigned to the brigade and would give the Secretary of the Army one year to achieve that level. This section would also require training safety cells be established in each of the three major phases of the Ranger course to advise

Ranger instructors with regard to the potential impact of local weather and other conditions on the students.

SECTION 558—REPEAL OF CERTAIN CIVIL-MILITARY PROGRAMS

This section would terminate four programs established by the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484), namely: the Civil-Military Cooperative Action Program, the National Guard Youth Opportunities Pilot Program, the pilot outreach program to reduce demand for illegal drugs, as well as department support for the Civilian Community Corps. At the time of establishment, the underlying premise of all these programs was that the end of the Cold War would bring about a reduced operational tempo so that Department of Defense resources could be turned to a secondary mission of helping to rebuild America.

The committee believes that the original premise of these civil-military programs is no longer valid, especially given the repeated testimony to the committee that the Department is struggling to find sufficient resources to meet the unexpectedly high operations tempo of the post Cold-War world. In light of new operational realities, the committee rejects the President's budget request which sought more than $76 million for the four civil military programs in fiscal year 1996.

To meet more critical readiness needs, the committee directs the Secretary of Defense to provide at least $29 million in fiscal year 1996 to fill shortfalls in unit and organizational requirements for dual-status military technician positions, in the following priority:

(1) first, to units of the selected reserve that are scheduled to deploy no later than 90 days after mobilization;

(2) second, to units of the selected reserve that are or will be deployed to relieve high rates of active-duty peacetime operations tempo; and

(3) third, to those organizations which have the primary mission of providing direct support surface and aviation maintenance for the reserve components of the Army and Air Force.

The committee further directs that shortages of dual-status military technicians that exist in reserve component management headquarters, including national and state-level National Guard headquarters, in United States Property and Fiscal Offices, and in similar management level headquarters of the Army reserve and Air Force reserve, shall not be filled until after the first three priorities have been accomplished.

The committee takes this action believing that funding military technicians contributes directly to overall National Guard and Reserve readiness, whereas the terminated civil-military programs do not.

SECTION 559—ELIGIBILITY FOR ARMED FORCES EXPEDITIONARY MEDAL BASED UPON SERVICE IN EL SALVADOR

This section would designate the country of El Salvador during the period beginning January 1, 1981 and February 1, 1992 as an area and a period of time in which members of the armed forces participated in operations in significant numbers and otherwise

met the general requirements for award of the Armed Forces Expeditionary Medal.

SECTION 560—REVISION AND CODIFICATION OF MILITARY FAMILY ACT AND MILITARY CHILD CARE ACT

This section would codify in title 10, United States Code, updated provisions of two acts which were instrumental in focusing Department of Defense attention on the needs of military families and on the importance of effective child care programs. The two acts incorporated are: The Military Family Act of 1985 (title VII of Public Law 99–145), and The Military Child Care Act of 1989 (title XV, Public Law 101–189).

SECTION 561—DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO HAVE THE HIV–1 VIRUS

This section would require the Secretary of Defense to separate or retire service members who are identified as HIV-positive. Such members would be separated or retired within six months of testing HIV-positive unless the member is within a two year retirement sanctuary. Members within the two year retirement sanctuary would be retained until reaching retirement eligibility. The committee has elected to recommend the separation of HIV-positive service members who are permanently nondeployable because the retention of such personnel degrades unit readiness and fails to protect deployment equity among service members.

SECTION 562—AUTHORITY TO APPOINT BRIGADIER GENERAL CHARLES E. YEAGER, UNITED STATES AIR FORCE (RETIRED), TO THE GRADE OF MAJOR GENERAL ON THE RETIRED LIST

This section would authorize the President to advance Brigadier General Charles E. Yeager (retired), to the grade of major general on the retired list. The appointment would require the advice and consent of the United States Senate and would have no effect on the member's retired pay or other benefits.

SECTION 563—DETERMINATION OF WHEREABOUTS AND STATUS OF MISSING PERSONS

This section would require the Secretary of Defense to centralize the oversight and policy responsibility for accounting for missing persons at the Department of Defense level. This section would codify and standardize procedures for accounting for members of the armed forces or civilian employees of the Department of Defense who become missing as a result of military operations. This section would also establish a procedure for review of cases of those who are missing as a result of military operations since January 1, 1950. In addition, it would codify a process to protect the interests of families of missing service members. Further, it would provide a process to allow the concerns and questions of family members to be promptly addressed.

For years, Congress has struggled to find ways to obtain the fullest possible accounting of American service members and civilians under the employment of the Department of Defense who were listed as missing in action or became prisoners of war. Under this sec-

tion, a specified chain of reporting and a coordinated process of inquiry would be established from the time that a person is reported missing until the case is resolved. The process would protect the missing service member from being declared "dead" solely because of the passage of time.

The regulated process will include a coordinated effort for the systematic, timely collection and analysis of all investigative information related to unresolved cases of missing personnel and prisoners of war. This information will be reviewed periodically by boards of inquiry. The inquiry process will include legal representation for the missing personnel and dissemination of inquiry results to immediate family members.

This process will help to resolve perhaps the greatest recurring tragedy related to unresolved cases of missing service members whose families and next of kin have experienced both frustration and anguish in trying to obtain answers from an unresponsive bureaucracy.

SECTION 564—NOMINATIONS TO SERVICE ACADEMIES FROM COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

This section would authorize the Resident Representative of the Commonwealth of the Northern Mariana Islands to nominate one cadet for attendance at each of the service academies.

ITEMS OF SPECIAL INTEREST

ADDITIONAL FUNDS FOR RECRUITING

The committee has observed that the recruiting environment has grown increasingly difficult. Recruiters within all the military departments are responding to the changing environment by developing new initiatives and applying additional manpower and funding. Accordingly, the committee recommends an increase of $35.5 million in recruiting advertising operations and maintenance funding.

ENLISTMENT PROPENSITY

The committee is concerned that the propensity for enlistment-age men and women to consider military service has declined dramatically since 1991. The Department of Defense measures propensity annually by conducting a computer assisted telephone survey of 10,000 young men and women called the Youth Attitude Tracking Study (YATS). While the YATS survey has been useful in identifying trends in youth propensity, the Department has used focus groups to develop a better understanding of why attitudes have changed.

While some generalized conclusions about the decline in propensity have been identified by the Department, the continued decline of the 16–21 year-old male propensity in just the last year remains conjecture. The Department has accordingly planned to conduct two series of focus groups during the summer of 1995. One series involves minority and non-minority adults who influence the career and lifestyle decisions of youth, and the second series involves high school seniors and recent graduates across the nation.

The committee believes that the focus groups should explore a comprehensive range of potential causes for the decline in propensity and develop proposed solutions to be considered by the Department and the Congress to correct unfavorable trends. The committee directs the Secretary of Defense to submit a report to the Congress, not later than March 31, 1996, on the results from the focus groups and the proposed actions to correct unfavorable trends in enlistment propensity.

FAMILY ADVOCACY PROGRAM AND NEW PARENT SUPPORT PROGRAM

The committee heard extensive testimony from Department of Defense witnesses regarding the strains placed on military families as a result of the high operations tempo being experienced by all services. These strains manifested themselves in many ways including child and spouse abuse. Concerns for military personnel and their families caused the Secretary of Defense to initiate a broad range of quality of life measures. The committee commends the Secretary for those long needed measures.

On the other hand, while the committee understands that the President's fiscal year 1996 budget request increased the funding for the family advocacy program (FAP) over the fiscal year 1995 request, the FAP would still be resourced by the President's proposal at $29.8 million below that which was appropriated by Congress in fiscal year 1995. Even more disturbing to the committee is the fact that the budget request contains no money in fiscal year 1996 for the New Parent Support Program—funded at $20 million in fiscal year 1995.

The committee considers both the FAP and the New Parent Support Program—programs designed either to prevent military family violence or to help the victims of it—to be crucial to readiness and retention of quality people. The committee, therefore, recommends an additional authorization in fiscal year 1996 of $30 million for the FAP, to be allocated among the services as the Secretary deems appropriate, and an additional $23.2 million for the New Parent Support Program, allocated as follows: $10 million for the Army, $3.6 million for the Air Force, $5.6 million for the Navy, and $4 million for the Marine Corps.

RECRUITING EQUITY FOR GENERAL EDUCATION DEVELOPMENT CERTIFICATES

The committee is concerned that the Department of Defense does not offer the opportunity to enlist in the armed forces to many Americans because they possess General Education Development (GED) certificates and not high school diplomas. The committee wants to confirm that this preference is properly justified and that there is no alternative available to allow individual candidates with GED certificates to be accepted for enlistment on equal footing with high school graduates with diplomas.

Accordingly, the committee directs the Secretary of Defense to submit a report to the Congress not later than March 31, 1996 specifying the rationale for preferring high school graduates with diplomas over candidates with GED certificates and the supporting data. The report should also include an assessment by the Secretary of the potential for a process to be developed that would

allow recruit candidates with GED certificates to be evaluated on an individual basis for enlistment consideration on equal footing with high school graduates with diplomas.

AIR NATIONAL GUARD FIGHTER AND AIRLIFT FORCE STRUCTURE

The National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) directed the Secretary of Defense to review the findings of the Commission on Roles and Missions of the Armed Forces and report on the appropriate number of primary aircraft authorized (PAA) for Air National Guard general purpose fighter units. The provision reflected the concern that PAA was being reduced from 24 or 18 aircraft per squadron to 15.

Even though that required report has not been rendered, the committee is disturbed to learn that the Department of Defense in fiscal year 1996 plans to further reduce the general purpose fighter PAA to 12 aircraft per squadron, as well as to further reduce the PAA of tactical airlift units. The committee believes that such reductions would be counterproductive to readiness and overall force capability. The committee, therefore, until it can receive and review the Secretary of Defense's report required by law on this issue, directs that the PAA of general purpose fighter units be maintained at 15 aircraft per squadron, and that the PAA for tactical airlift units be maintained at current levels.

REVITALIZATION OF THE RESERVE FORCES

The committee recognizes that the reserve components of the Armed Forces of the United States are a vital and integral element of the nation's defense. As such, the reserve components' roles, organization and leadership are important matters of national security and must be fully examined, especially in light of the increasing reliance being placed on the reserve components of the military forces.

Among the issues which the committee believes should be examined are:

1. The establishment of a separate reserve command for each of the armed services;
2. The source and grade of the commander of each reserve command;
3. The grade of the Vice Chief of the National Guard Bureau;
4. Exemption of reserve component general/flag officer positions from active duty grade ceilings and restrictions;
5. Requirements for full-time support personnel;
6. The necessity to allow the President to activate reserve units to respond to natural disasters; and
7. The necessity to encourage the employment of reserve component members by providing incentives to employers of reservists and to reserve component members.

The committee will undertake an examination of these and other related issues as part of the fiscal year 1997 defense budget hearing cycle.

ARMY ACTIVE COMPONENT AND RESERVE COMPONENT OFFSITE AGREEMENT

The committee continues to recognize the unique contribution of the major restructuring of the Army's reserve components, known as the "offsite agreement," announced by the Secretary of Defense in December 1993. This agreement between the active Army, the Army national guard and the Army reserve stabilized reserve component force structure and end strength through fiscal year 1999, thereby making it possible for the Total Army to move forward with efforts to increase reliance on the reserve components.

The committee understands that the Secretary of Defense, in directing that the active Army end strength be reduced 20,000 below the baseline established by the Bottom Up Review, has also required the Army to examine reductions of Army reserve component force structure and end strength below the "offsite agreement" levels. The committee fully understands the Department's need to study potential future reserve component restructuring. However, the committee remains committed to maintaining the "offsite agreement" through fiscal year 1999 and would expect the Secretary of Defense to provide a compelling rationale to the committee before making substantive changes to the agreement.

AIR NATIONAL GUARD SUPPORT TO THE UNITED STATES ANTARCTIC PROGRAM

Beginning in fiscal year 1996, the Air National Guard 109th Airlift Group will begin a three-year transition that will result in the group assuming the mission of providing airlift support in the Antarctic for the National Science Foundation.

The National Science Foundation, which has the overall management responsibility for the United States Antarctic Program (USAP), has obtained airlift support in the past by funding all personnel, operations and maintenance costs incurred by the Navy, the Department of Defense executive agent for USAP.

The committee fully supports the shift in responsibility for USAP airlift support from the Navy to the Air National Guard, so long as the cost-reimbursement system currently used by the National Science Foundation for the Navy continues to directly reimburse the Air National Guard for all costs incurred in support of the USAP.

The committee understands that to perform this new mission the 109th Airlift Group may need as many as 235 more full-time active guard and reserve personnel than are currently authorized. Preliminary assessments made in 1993 indicate that these additional personnel would be required in the following increments: fiscal year 1996, 56 personnel; fiscal year 1997, 115 personnel; and fiscal year 1998, 54 to 64 personnel.

Given the small number of additional personnel required by the Air National Guard in fiscal year 1996, the committee directs the Secretary of Defense to provide that additional end strength to the Air National Guard from the end strength variation made available to the secretary by section 411(b) of this bill. To support the additional end strength, the committee has recommended an additional $2 million for fiscal year 1996. The committee expects that the Na-

tional Science Foundation will subsequently reimburse the department for these fiscal year 1996 transition costs, as well as for all transition costs incurred in subsequent years.

The committee expects that the Secretary of Defense will include in the fiscal year 1997 Defense Authorization Act request a more refined requirement for end strength additions to support this new mission.

SIMULTANEOUS MEMBERSHIP PROGRAM

The committee is aware of a program that allows Reserve Officers' Training Corps (ROTC) cadets to serve simultaneously as a member of a selected reserve unit. Under current policy, such participation is denied to ROTC cadets who have been awarded scholarships. The committee believes the simultaneous membership program to be an important program that serves the best interest of the armed forces and the cadets.

The committee directs the Secretary of Defense to report to the Congress, not later than March 31, 1996, on the propriety of authorizing ROTC cadets who have been awarded scholarships to participate in the simultaneous membership program. The report should also include a recommendation as to how cadets in the program should be paid for service as a member in the selected reserve.

SERVICE ACADEMY ADMISSION ACCEPTANCE DECISION POINT

The committee is concerned that high quality officer candidates are being lost to the armed forces because the service academies are not completing their admissions process in a timely manner. The committee believes that administrators of Reserve Officers' Training Corps (ROTC) recruiting programs would benefit from a process that would provide a list of applicants not accepted for attendance at the service academies not later than April 1 of each year.

The committee directs the Secretary of Defense to report to the Congress, not later than March 31, 1996, on the feasibility of a process that would provide ROTC administrators a list of applicants who have not been accepted for attendance at the service academies. The report should include a recommended date for the submission of the list, or a schedule for the submission of a series of partial lists, as appropriate. If the earliest recommended date is after April 1 of each year, the report should include an explanation as to why the submission of a partial list, as a minimum, is not possible by April 1.

DECORATIONS FOR HEROIC ACTS

The committee frequently receives requests for legislation to award decorations for heroism. The acts of heroism cited appear to merit consideration but are often not evaluated by the armed services because the recommendations fail to meet the statutory or policy requirements for timely submission. This has been especially true during the last five years as the nation celebrated the fiftieth anniversary of World War II. The committee has observed increasing frustration among members of Congress who are unable to ob-

tain evaluations by the military departments on the merits of individual cases. The committee understands the difficulty in evaluating cases with limited documentation dating from periods when the criteria for awarding decorations was very different from the criteria used today. However, the committee believes that a process could be developed for providing the Congress an assessment as to whether individual recommendations thought to be uniquely meritorious are deserving of award.

Accordingly, the committee directs the Secretary of Defense, in cooperation with the Secretaries of the military departments, to report to the Congress, not later than March 31, 1996, on the feasibility of developing a process by which the Secretary could provide the Congress assessments on the merit of individual recommendations for decorations submitted after established time limits.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

SUBTITLE A—PAY AND ALLOWANCES

SECTION 601—MILITARY PAY RAISE FOR FISCAL YEAR 1996

This section would provide a 2.4 percent military pay raise as proposed in the President's budget. The committee has reservations about this level of raise because it would institutionally sanction a one-half of one percent lower level of increase than is expected within the private sector. The committee expects the ongoing Eighth Quadrennial Review of Military Compensation (QRMC) to evaluate the importance of the cumulative gap that exists between military and private sector pay levels and to reassess the process for determining the level of pay increases. The committee looks forward to receiving the recommendations of the QRMC for changes that will protect readiness and the ability of the armed services to recruit and retain quality personnel.

The committee notes that the President's budget request included a provision designed to incrementally reduce the out-of-pocket housing costs for service members, but that the proposal is inadequately funded to achieve the intended level of benefit. Accordingly, section 601 would provide a 5.2 percent increase in the basic allowance for quarters which will fully fund the initiative to achieve the President's original objective to reduce out-of-pocket housing costs for service members to 19.5 percent.

SECTION 602—LIMITATION ON BASIC ALLOWANCE FOR SUBSISTENCE FOR MEMBERS WITHOUT DEPENDENTS RESIDING IN GOVERNMENT QUARTERS

This section would require the Secretaries of the military departments to allow no more than 12 percent of the service members without dependents residing in government quarters to receive basic allowance for subsistence (BAS). The Inspector General of the Department of Defense identified the process for authorizing BAS as requiring management attention in a September 1994 review.

The provision would also require the Secretary of Defense, not later than March 31, 1996, to submit a report to the Congress confirming the current number of service members without dependents

residing in government quarters who receive BAS and establishing a standard for the appropriate percentage of such personnel who should receive BAS. The committee believes that 12 percent is a proper interim standard for the Secretaries of the military departments to achieve until the report is received from the Secretary of Defense.

SECTION 603—AUTHORIZATION OF PAYMENT OF BASIC ALLOWANCE FOR QUARTERS TO ADDITIONAL MEMBERS ASSIGNED TO SEA DUTY

This section would authorize payment of basic allowance for quarters and variable housing allowance to single E–6 personnel assigned to shipboard sea duty.

SECTION 604—ESTABLISHMENT OF MINIMUM AMOUNTS OF VARIABLE HOUSING ALLOWANCE FOR HIGH HOUSING COST AREAS AND ADDITIONAL LIMITATION ON REDUCTION OF ALLOWANCE FOR CERTAIN MEMBERS

This section would authorize the Secretary of Defense to establish a minimum amount of variable housing allowance (VHA) to meet the cost of adequate housing in high cost areas. The provision would also prevent the amount of VHA paid to an individual from being reduced as long as the member retains uninterrupted eligibility to receive VHA in the housing area and the member's housing costs are not reduced.

SECTION 605—CLARIFICATION OF LIMITATION ON RECEIPT OF FAMILY SEPARATION ALLOWANCE

This section would authorize the payment of family separation allowance to service members on board a ship that is away from the homeport of the ship even though the service member has elected to remain unaccompanied by dependents at the permanent duty station.

SUBTITLE B—BONUSES AND SPECIAL AND INCENTIVE PAYS

SECTION 611—EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES

This section would extend the authority for the selected reserve reenlistment bonus, the selected reserve enlistment bonus, the selected reserve affiliation bonus, the ready reserve enlistment and reenlistment bonus, and the prior service enlistment bonus until September 30, 1998.

SECTION 612—EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS

This section would extend the authority for the nurse officer candidate accession program, the accession bonus for registered nurses, and the incentive special pay for nurse anesthetists until September 30, 1998.

SECTION 613—EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS

This section would extend the authority for the aviation officer retention bonus, the reenlistment bonus for active members, enlistment bonuses for critical skills, special pay for enlisted members of the selected reserve assigned to certain high-priority units, special pay for nuclear-qualified officers extending the period of active service, and the nuclear career accession bonus until September 30, 1998. The provision would also extend the authority for repayment of education loans for certain health professionals who serve in the selected reserve and the nuclear career annual incentive bonus until October 1, 1998.

SECTION 614—CODIFICATION AND EXTENSION OF SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVES

This section would amend title 37, United States Code, to include authorization of special pay for critically short wartime health specialists in the selected reserves and extend the authority for the special pay until September 30, 1998.

SECTION 615—CHANGE IN ELIGIBILITY REQUIREMENTS FOR CONTINUOUS MONTHLY AVIATION INCENTIVE PAY

This section would reduce the initial operational flying requirement for Aviation Career Incentive Pay from 9 of the first 12 years to eight of the first 12 years of aviation service.

SECTION 616—CONTINUOUS ENTITLEMENT TO CAREER SEA PAY FOR CREWMEMBERS OF SHIPS DESIGNATED AS TENDERS

This section would authorize personnel assigned to tenders to receive career sea pay.

SECTION 617—INCREASE IN MAXIMUM RATE OF SPECIAL DUTY ASSIGNMENT PAY FOR ENLISTED MEMBERS SERVING AS RECRUITERS

This section would authorize payment of additional special duty assignment pay to recruiters up to a maximum monthly rate of $375. The committee expects the Secretary of Defense and the Secretaries of the military departments to increase the special duty assignment pay proportionately for all recruiters to offset the concerns about financial hardships identified by recruiter surveys.

SUBTITLE C—TRAVEL AND TRANSPORTATION ALLOWANCES

SECTION 621—AUTHORIZATION OF RETURN TO UNITED STATES OF FORMERLY DEPENDENT CHILDREN WHO ATTAIN AGE OVERSEAS

This section would authorize dependent children who lose eligibility as dependents for any reason while overseas to return to the United States at government expense prior to the sponsor receiving permanent-change-of-station orders.

SECTION 622—AUTHORIZATION OF DISLOCATION ALLOWANCE FOR MOVES IN CONNECTION WITH BASE REALIGNMENTS AND CLOSURES

This section would authorize the payment of dislocation allowance for service members directed to move as a result of the closure or realignment of an installation.

SUBTITLE D—OTHER MATTERS

SECTION 631—ELIMINATION OF UNNECESSARY ANNUAL REPORTING REQUIREMENTS REGARDING COMPENSATION MATTERS

This section would eliminate a report on dependents accompanying members on alignments to overseas locations and simplify the requirement for the President to submit to the Congress recommendations on military pay matters.

SECTION 632—STUDY OF JOINT PROCESS FOR DETERMINING THE LOCATION OF RECRUITING STATIONS

A December 1994 General Accounting Office report (GAO/NSIAD 95–22) determined that the military departments are maintaining recruiters in offices that are relatively unproductive. The report also found that further savings could be achieved through consolidation of recruiting functions to include market research and analysis. The committee believes that the military departments would save critical resources and increase recruiter efficiency by employing new techniques to maintain a presence in remote areas and developing a joint strategy for locating and manning recruiting stations based on joint market research and analysis. The committee believes that a method for measuring the success of individual recruiting stations is essential and that information resulting from such a method should be reported to the Congress on a continuing basis to ensure the efficient use of recruiting resources.

Accordingly, this section would require the Secretary of Defense to conduct a study of the feasibility of a joint process for determining the location and manning of recruiting stations that would be based on market research and analysis conducted jointly by the military departments. The report resulting from the study should include a recommended method for measuring the efficiency of individual recruiting stations utilizing recruiting station cost per accession or other efficiency standard, as determined by the Secretary. The report would be submitted to the Congress not later than March 31, 1996.

SECTION 633—FISCAL YEAR 1996 COST-OF-LIVING ADJUSTMENT FOR MILITARY RETIREES

This section would conform the military retired pay cost-of-living adjustment (COLA) payment date with the payment date established for federal civilian retirees by making the military retired pay COLA payable on March 1996 rather than September 1996. The committee is disappointed that the President's initiative within the budget request to resolve the disparity between the two groups of retirees was proposed in such a manner as to compel the committee to once again use scarce discretionary funds to address a mandatory spending initiative. Because the committee has no abil-

ity to provide a mandatory offset for the Administration's COLA equity initiative within the 050 budget function and therefore avoid a "PAYGO" problem, under the Budget Enforcement Act, the committee has authorized $403 million in the personnel account to restore equity in COLA payment dates. This decision once again demonstrates the committee's resolve to protect the purchasing power of military retired pay. However, the committee remains committed to seeking through the budget process a solution that does not require funding from discretionary accounts.

TITLE VII—HEALTH CARE PROVISIONS

SUBTITLE A—HEALTH CARE SERVICES

SECTION 701—MODIFICATION OF REQUIREMENTS REGARDING ROUTINE PHYSICAL EXAMINATIONS AND IMMUNIZATIONS UNDER CHAMPUS

This section would amend section 1079(a) of title 10, United States Code, by expanding "well-baby visits" and immunizations to dependents under the age of six, by authorizing immunizations at age six and above and by adding coverage of health promotion and disease prevention visits associated with immunizations, and pap smears and mammograms.

The section would provide the Secretary of Defense the authority to determine the types and schedule of immunizations, the schedule of pap smears and mammograms, and the content of the associated health promotion/disease prevention visits.

SECTION 702—CORRECTION OF INEQUITIES IN MEDICAL AND DENTAL CARE AND DEATH AND DISABILITY BENEFITS FOR CERTAIN RESERVISTS

This section would authorize reservists the same death and disability benefits as active duty members, during off-duty periods between successive inactive duty training periods performed at locations outside the reasonable commuting distance from the member's residence.

SECTION 703—MEDICAL AND DENTAL CARE FOR MEMBERS OF THE SELECTED RESERVE

The committee is committed to ensuring the readiness of reserve and national guard members. The experiences of Operations Desert Shield and Desert Storm highlighted a need to address medical and dental readiness of selected reserve and guard members.

This section would require the Secretary of the Army to provide medical and dental screenings, physical exams for members over 40, and the dental care required to meet dental readiness standards to units scheduled for deployment within 75 days of mobilization.

This section would also require the Secretary of Defense to conduct a demonstration program to offer members of the selected reserve dental readiness insurance on a voluntary basis, at no cost to the Department of Defense. Payment of premiums should be allowed through direct allotment and attempts should be made to directly link the program to dental readiness. This could be done by providing program participants with a dental readiness verification form to be completed by their dental care provider on a specified

basis, such as annually or semi-annually, as deemed appropriate by the Department for ensuring dental readiness.

In addition, this section would require the Department to evaluate the success of such a program in improving the dental readiness of selected reserve and guard members.

SUBTITLE B—TRICARE PROGRAM

SECTION 711—PRIORITY USE OF MILITARY TREATMENT FACILITIES FOR PERSONS ENROLLED IN MANAGED CARE INITIATIVES

This section would amend title 10, United States Code, to require the Secretary of Defense, as an incentive for enrollment, to establish reasonable priorities for services in military treatment facilities for TRICARE-enrolled beneficiaries.

The committee believes that a managed health care program provides the best opportunity for the Department of Defense to control health care costs. Offering priority treatment in military treatment facilities provides a strong incentive for military health care beneficiaries to enroll in the Department's managed-care program.

SECTION 712—STAGGERED PAYMENT OF ENROLLMENT FEES FOR TRICARE

Section 1097(e) of title 10, United States Code, authorizes the Secretary of Defense to prescribe a co-payment or other charge for health care provided through a managed health care program. This section would amend section 1097(e) of title 10 to require the Secretary of Defense to allow beneficiaries to pay any required enrollment fees on a monthly or quarterly basis, at no additional cost to the beneficiary.

SECTION 713—REQUIREMENT OF BUDGET NEUTRALITY FOR TRICARE TO BE BASED ON ENTIRE PROGRAM

During recent hearings on the Department of Defense's TRICARE managed health care program, the Congressional Budget Office reported that the statutory requirement that the health maintenance organization (HMO) option of the TRICARE program by itself be budget neutral would limit the Department's ability to offer the HMO option in noncatchment areas—areas with no military medical treatment facilities within 40 miles. Health care costs to the Department in these areas are likely to be higher than the cost of care furnished in military facilities.

In addition, the Congressional Budget Office reported that removing the requirement for the HMO option to be budget neutral and simply requiring the TRICARE system in its entirety to be budget neutral would offer the Department greater flexibility to provide all beneficiaries with a uniform triple-option benefit structure. This section would reaffirm the committee's commitment to providing a uniform health benefit to all Department of Defense medical beneficiaries by giving the Department the tools to establish an HMO option in most areas of the country.

SECTION 714—TRAINING IN HEALTH CARE MANAGEMENT AND ADMINISTRATION FOR TRICARE LEAD AGENTS

This section would direct the Secretary of Defense to ensure that military medical treatment facility commanders selected to serve as lead agents for the Department's managed health-care program, TRICARE, receive appropriate training in health-care management and administration.

During recent hearings on the TRICARE program, both the General Accounting Office and the Congressional Budget Office expressed concerns over whether the training received by medical treatment facility commanders was adequate to prepare them to manage a health care system of the cost, size and complexity of the TRICARE managed system. The committee is committed to ensuring the effectiveness of the TRICARE program and believes that a formal education program would contribute materially to that objective.

SECTION 715—EVALUATION AND REPORT ON TRICARE EFFECTIVENESS

This section would require the Secretary of Defense to obtain an ongoing independent evaluation of the TRICARE program by a federally funded research and development center and to provide an annual report to Congress on the results of the evaluation. The evaluation would seek to assess the effectiveness of the TRICARE program in achieving its goals of increasing access to and improving the quality of medical care provided to covered beneficiaries without increasing the total cost to the government or out-of-pocket costs to beneficiaries. Additionally, the evaluation should report on efforts to make TRICARE Prime, the HMO option, available in non-catchment and rural areas.

SUBTITLE C—UNIFORMED SERVICES TREATMENT FACILITIES

SECTION 721—LIMITATION ON EXPENDITURES TO SUPPORT UNIFORMED SERVICES TREATMENT FACILITIES AND LIMITATION ON NUMBER OF PARTICIPANTS IN USTF MANAGED CARE PLANS

This section would amend the Defense of Defense Authorization Act, 1984 (Public Law 98–94) to limit the amount authorized to be spent by the Department of Defense on the Uniformed Services Treatment Facilities (USTFs) managed care plan to $300,000,000—the amount appropriated for the USTFs in fiscal year 1995. In addition, this section would limit the number of beneficiaries enrolled in the USTF program to the number enrolled as of September 30, 1995.

SECTION 722—APPLICATION OF FEDERAL ACQUISITION REGULATION TO PARTICIPATION AGREEMENTS WITH UNIFORMED SERVICES TREATMENT FACILITIES

This section would amend the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) by repealing the exemption from the Federal Acquisition Regulation (FAR) granted the Uniformed Services Treatment Facilities (USTFs). The FAR was issued to promote competition and ensure that the federal government and its contractors are afforded the safeguards and con-

trols necessary to ensure proper performance and prevent the fraud, waste and abuse of public revenues. This section would allow the Department of Defense to more effectively manage its military health-care system.

SECTION 723—DEVELOPMENT OF PLAN FOR INTEGRATING UNIFORMED SERVICES TREATMENT FACILITIES IN MANAGED CARE PROGRAMS OF DEPARTMENT OF DEFENSE

This section would amend section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) to require the Secretary of Defense to submit to Congress a plan under which the 10 Uniformed Services Treatment Facilities (USTFs) would be integrated into the Department of Defense's managed health-care program prior to September 30, 1997.

In addition, this section would require the Secretary to assess the feasibility of implementing a modified version of USTF option II. This option would permit the USTFs to become designated as Medicare-risk health maintenance organizations (HMOs) and to seek reimbursement from Medicare for Medicare-covered services provided DOD beneficiaries enrolled in USTF health care programs. These beneficiaries also could use military treatment facilities for CHAMPUS-covered benefits that are not covered by Medicare, or the Department of Defense would reimburse the USTFs for these limited benefits.

This section would express the committee's concern for ensuring the continued care in the military health services system for those beneficiaries currently enrolled in the USTF program.

SECTION 724—EQUITABLE IMPLEMENTATION OF UNIFORM COST SHARING REQUIREMENTS FOR UNIFORMED SERVICES TREATMENT FACILITIES

This section would direct the Secretary of Defense to apply uniform cost shares to each of the 10 Uniformed Services Treatment Facilities (USTFs) only upon regional implementation of the TRICARE managed health care program in the USTF's service area.

SUBTITLE D—OTHER CHANGES TO EXISTING LAWS REGARDING HEALTH CARE MANAGEMENT

SECTION 731—MAXIMUM ALLOWABLE PAYMENTS TO INDIVIDUAL HEALTH CARE PROVIDERS UNDER CHAMPUS

This section would amend title 10, United States Code, to codify a provision of the Department of Defense Appropriations Act for Fiscal Year 1995 (Public Law 103–335) which establishes a process for gradually reducing CHAMPUS maximum payment amounts to those limits for similar services under Medicare, with special consideration given to preserving access to care and limiting balance billing by providers.

This section would authorize the Secretary of Defense to transition from its current system of prevailing charges for professional services to payment limits similar to the Medicare fee schedule. It also would provide the Secretary with the authority to make excep-

tions to the fee schedule limits to ensure adequate care is provided to covered beneficiaries.

SECTION 732—EXPANSION OF EXISTING RESTRICTION ON USE OF DEFENSE FUNDS FOR ABORTIONS

This section would amend section 1093 of title 10, United States Code, to include restricting the Department of Defense from using medical treatment facilities or other DOD facilities, as well as DOD funds, to perform abortions unless necessary to save the life of the mother.

SECTION 734—REDESIGNATION OF MILITARY HEALTH CARE ACCOUNT AS DEFENSE HEALTH PROGRAM ACCOUNT AND TWO-YEAR AVAILABILITY OF CERTAIN ACCOUNT FUNDS

This section would amend section 1100 of title 10, United States Code, to allow the Secretary of Defense to carry over three percent of the defense health plan annual operation and maintenance appropriations to the end of the next fiscal year.

The purpose of a managed care strategy is to provide high-quality and cost-effective health care to the Department's beneficiaries. The single-year nature of the defense health program appropriation is an impediment to the effectiveness of incentives that can presently be employed. In all cases, funding authority not used during the specified appropriation period is lost. This precludes the use of savings generated from current-year management efforts to be used for investments in the following fiscal year. As a result, there is an incentive for managers to spend these funds on lower-priority but easily-obligated requirements, avoiding higher-priority requirements that require greater lead time for obligations.

SUBTITLE E—OTHER MATTERS

SECTION 741—TERMINATION OF PROGRAM TO TRAIN AND UTILIZE MILITARY PSYCHOLOGISTS TO PRESCRIBE PSYCHOTROPIC MEDICATIONS

The Defense Appropriations Act for Fiscal Year 1989 (Public Law 101–511) directed the Department of Defense to conduct a pilot demonstration project to train military psychologists to prescribe psychotropic drugs. This section would direct the Department of Defense to terminate the pilot demonstration program and would withdraw from psychologists who participated in the demonstration program the authority to prescribe psychotropic drugs. The committee is concerned about the cost-effectiveness of a program that does not meet a Department of Defense requirement and from which only 50 percent of entering candidates graduate.

SECTION 742—WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY

This section would authorize the secretaries of Defense, Transportation and Health and Human Services to waive the collection of certain payments described for Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) beneficiaries. This waiver would apply to CHAMPUS beneficiaries who lost their CHAMPUS eligibility when they became entitled to Medicare be-

cause of disability or end-stage renal disease, excluding those who become eligible upon attaining age 65.

This waiver is necessary because these beneficiaries were not informed of their loss of CHAMPUS eligibility, continued to use CHAMPUS benefits and the CHAMPUS system continued to pay for care, sometimes for years. When the Department of Defense issues erroneous benefit payments to an individual not eligible for CHAMPUS, the payments are a debt owed to the government and are subject to recovery under the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982.

This section would authorize the administering secretaries to waive the recovery of these erroneous payments so that beneficiaries who, due to no fault of their own, continued to use certain benefits for which they were no longer eligible are not unfairly penalized. This section also would establish a termination date for the waiver authority so that beneficiaries would not be enticed to avoid Medicare Part B enrollment.

SECTION 743—NOTIFICATION OF CERTAIN CHAMPUS-COVERED BENEFICIARIES OF LOSS OF CHAMPUS ELIGIBILITY

This section would direct the administering secretaries to develop a mechanism for notifying beneficiaries of their ineligibility for CHAMPUS health benefits when they lose their CHAMPUS eligibility due to disability status.

SECTION 744—DEMONSTRATION PROGRAM TO TRAIN MILITARY MEDICAL PERSONNEL IN CIVILIAN SHOCK TRAUMA UNITS

During committee hearings on the military health-care system, testimony was received that recommended the Department of Defense strengthen affiliations with civilian hospitals to provide better wartime training and to meet some of the requirements for caring for active-duty personnel.

This section would require the Secretary of Defense to conduct a demonstration program to evaluate the feasibility of providing additional shock trauma training for military medical personnel through arrangements with civilian hospitals where military medical personnel would work and train together as a team.

SECTION 745—STUDY REGARDING DEPARTMENT OF DEFENSE EFFORTS TO DETERMINE APPROPRIATE FORCE LEVELS OF WARTIME MEDICAL PERSONNEL

This section would direct the Comptroller General of the United States to evaluate the effectiveness of the modeling efforts of each of the three service surgeons general for determining the appropriate wartime military medical force-level requirements and to submit to Congress a report on this evaluation not later than March 1, 1996. The report shall (1) assess the modeling techniques used by each service; (2) analyze the data used in the model to identify medical personnel requirements; (3) identify the ability of the models to integrate reserve component requirements; and (4) evaluate the Department of Defense's ability to integrate the modeling efforts into a comprehensive, coordinated plan for rightsizing the military medical establishment.

SECTION 746—STUDY REGARDING EXPANDED MENTAL HEALTH SERVICES FOR CERTAIN COVERED BENEFICIARIES

This section would direct the Secretary of Defense to study the feasibility of expanding mental health services to include ''wraparound'' services, and to report the results of the study to Congress by March 1, 1996.

Wraparound services provide continued care for child and adolescent patients designed to support the effectiveness of residential treatment. The process builds support for the patient, allowing shorter inpatient stays through comprehensive and continued management of care, and reducing recidivism for the residential phase of treatment. During a test at Fort Riley, Kansas, wraparound services reduced costs for inpatient psychiatric and residential care from $3.9 million in fiscal year 1991 to $0.87 million in fiscal year 1994.

The wraparound services program would require providers or residential treatment services to share financial risk through case-rate reimbursement and to work to prevent recidivism by providing residential treatment services which include planning and individualized wraparound services as part of the treatment.

SECTION 747—REPORT ON IMPROVED ACCESS TO MILITARY HEALTH CARE FOR COVERED BENEFICIARIES ENTITLED TO MEDICARE

This section would require the Secretary of Defense to report on possible alternatives to improving access to the military health care system for those beneficiaries who are Medicare eligible and ineligible for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

The committee remains concerned about the growing population of military retirees who are unable to access the military health care system largely as a result of the drawdown of the military and the closure of military medical treatment facilities. These retirees are feeling increasingly disenfranchised from a government they served and defended devotedly. Without Medicare reimbursement, the Department will be forced to provide less and less care to this population.

The committee remains committed to identifying cost-effective alternatives for providing medical care to all military medical beneficiaries.

ITEMS OF SPECIAL INTEREST

MEDICARE REIMBURSEMENT TO THE DEFENSE HEALTH PROGRAM FOR CARE PROVIDED TO MEDICARE-ELIGIBLE BENEFICIARIES

The committee believes that Medicare reimbursement to Department of Defense medical facilities for care provided to Medicare-eligible beneficiaries can produce savings to both the Department of Defense and the Department of Health and Human Services because military hospital care is generally less expensive than health care services purchased in the private sector.

The Department's implementation of the TRICARE managed health care program nationwide over the next several years will offer a propitious opportunity to achieve government-wide savings

through Medicare reimbursement. Unfortunately, the Congressional Budget Office scoring of this initiative as a $2.7 billion direct spending cost by the year 2000 limits the committee's ability to act on this important initiative. This direct spending impact is largely due to the fact that the Health Care Financing Agency does not budget for military Medicare-eligible beneficiaries. Further limiting the committee's ability to act on this issue is the fact that the President's budget does not propose Medicare reimbursement to the Department.

The committee remains convinced that Medicare reimbursement is in the best interest of the military health care system and that such reimbursement will result in overall savings to the Federal Government. The committee remains committed to working with other committees and the President to achieve this worthwhile and necessary objective.

FORMATION OF VETERAN'S WING WITHIN NAVAL HOSPITAL GUAM

The committee is concerned about the need to continue providing quality health care services to thousands of beneficiaries as the Navy closes and realigns its facilities on Guam. The establishment of a veterans' wing within the Naval Hospital, Guam, could provide these beneficiaries with quality health care. Therefore, the committee directs the Secretary of the Navy to study a possible cooperative arrangement with the Department of Veterans Affairs to establish a VA wing within the Naval Hospital on Guam and to report to Congress on the results of this study by March 1, 1996.

HEALTH-CARE SHARING AGREEMENT BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

The committee is aware that the Secretary of Defense and the Secretary of Veterans Affairs have long had the authority to make sharing agreements for the mutual use or exchange of medical resources. Title II of Public Law 102–585 provided the authority for the Department of Veterans Affairs (VA) to provide medical care to CHAMPUS eligible beneficiaries on a reimbursable basis. Such agreements can realize cost savings for the Department of Defense, while enabling Veterans Affairs to operate more efficiently and improve services to veterans.

In a joint DOD/VA project implemented in early 1994 at the Asheville, North Carolina, VA Medical Center, Veterans Affairs provided services to more than 1,300 CHAMPUS patients at a discount from the CHAMPUS maximum allowable. Patient satisfaction has been very high and about 80 new registrants per month have requested services under the Asheville pilot project.

Other VA health care facilities, which have worked closely with local military retirees and base commanders, are prepared to provide services to CHAMPUS eligibles under agreements similar to those established at Asheville. In many of these communities, TRICARE managed-care contracts are not scheduled to be implemented for nearly two years. The Asheville experience demonstrates the kind of service Veterans Affairs can provide in the interim. Therefore, the committee urges the Department to work with Veterans Affairs to expand the number of such agreements

and to authorize VA facilities to serve as health care providers under the Department's TRICARE managed care system.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

LEGISLATIVE PROVISIONS

SECTION 801—REPEALS OF CERTAIN PROCUREMENT PROVISIONS

This section would repeal various provisions of law that: 1) impose unique procurement integrity requirements on DOD personnel thereby placing them under the same standards applied to non-DOD federal employees; 2) require non-value added contract clauses; 3) impose archaic limitations on the delegation of secretarial authorities; and 4) limit sources for procurement of critical spare parts.

SECTION 802—FEES FOR CERTAIN TESTING SERVICES

This section would allow certain Department of Defense test facilities to recoup both direct and indirect costs when providing services to the private sector.

SECTION 803—TESTING OF DEFENSE ACQUISITION PROGRAMS

This section would clarify the applicable terminology used to test weapon systems and other hardware items.

SECTION 804—COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES

This section would make a technical change to allow additional flexibility in existing acquisition reporting requirements.

SECTION 805—ADDITION OF CERTAIN ITEMS TO DOMESTIC SOURCE LIMITATION

This section would extend the current domestic source requirements for ball bearings and impose similar requirements for certain components of naval vessels.

SECTION 806—REVISIONS TO PROCUREMENT NOTICE PROVISIONS

This section would conform the defense procurement notice posting threshold to the same threshold used by civilian government agencies.

SECTION 807—INTERNATIONAL COMPETITIVENESS

This section would amend the Arms Export Control Act to remove the current requirement that government-to-government sales of U.S. military equipment carry a requirement to charge for recoupment of non-recurring research and development costs. This policy has had the effect of encouraging U.S. aerospace companies to market military items abroad on a commercial basis, rather than through the preferred Foreign Military Sales (FMS) process. The committee does not believe this policy change will lead to an increase in the sales of military systems, but instead will allow

American firms to compete on more equitable ground with foreign suppliers of military hardware.

SECTION 808—ENCOURAGEMENT OF USE OF LEASING AUTHORITY

This section would encourage the Secretary of Defense to utilize leasing practices whenever practicable.

ITEMS OF SPECIAL INTEREST

IMPLEMENTATION OF THE FEDERAL ACQUISITION STREAMLINING ACT

Congressional enactment of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) last year was an important initial step in the direction of streamlining the laborious Federal procurement system. This legislation is aimed at reducing the costs associated with doing business with the government while maintaining the oversight necessary to protect the taxpayer's interests.

The eventual success of the Federal Acquisition Streamlining Act (FASA), however, hinges on full and proper implementation of the law by the executive branch. In this regard, the committee commends the Department of Defense for moving rapidly to establish the necessary teams to develop regulations for public comment. On the other hand, the committee notes that action taken too quickly often does not achieve the intended results. Based on the committee's review of the proposed regulations, it appears that the draft FASA regulations fall into three categories: (1) those accomplishing what was intended; (2) those that miss the intent of the legislation; and (3) those that not only ignore the letter and spirit of the law but also impose new burdens not required by statute.

In the first category—accomplishing what was intended—the draft commercial contracting regulations clearly were drawn on a clean slate, rather than just making patchwork changes to existing regulations. Rather than being risk adverse, this approach relies on the forces of the commercial marketplace for quality, terms, prices, and other critical factors. The committee is also encouraged to note that the list of subcontract flowdown waivers, as intended by Congress, is a relatively lengthy list.

In the second category, the proposed regulations on contract financing, including commercial financing and performance based payments, are not only inconsistent with the legislative goals but would place enormous administrative burdens on the contracting officer and contractor. These burdens include: the requirements for commercial certifications, an either/or scenario for performance-based and progress payments, an arbitrary 75 percent reimbursement rate for performance-based payments and an automatic withholding of payments when one performance measure is missed or is in dispute. The proposed rule also permits agencies to issue their own regulations on commercial financing, in contravention of the legislation's intent to discourage nonstandard contract clauses.

Finally, in the third category, the proposed regulations related to the Truth in Negotiations Act (TINA) appear to miss the opportunity to take advantage of the legislative authority to eliminate regulatory-based burdens. Based on a review of the proposed TINA regulations, the committee identifies a number of deficiencies, to include: 1) the failure to make the definitions and forms more user

friendly in an environment where the Department and other agencies are seeking access to commercial products; 2) the expansion of the requirement for post-award audits to apply to procurements which qualify for a cost or pricing data exemption under TINA; and 3) maintaining and expanding the scope of the "percentage of sales test" where sales to the general public are compared to sales to the government for purposes of determining whether a product qualifies for a TINA exemption.

The committee understands that these issues, as well as others, are undergoing substantial revision as part of the regulatory process. Therefore, while the committee remains concerned over the initial draft proposals, it withholds final judgment on how well the regulatory process fulfills the full letter and spirit of this important legislation until the final regulations are issued.

MANAGEMENT RESPONSIBILITY FOR ACQUISITION POLICY

The committee is concerned that the current organizational structure within the Department of Defense has unnecessarily bifurcated the functional responsibility for development and implementation of acquisition policy. That responsibility is now split between the Office of the Deputy Under Secretary of Defense for Acquisition Reform and the Office of the Director for Defense Procurement. This arrangement results in unnecessary duplication of effort, but more importantly, invariably hinders the coherent development and implementation of needed acquisition reform within the Department. The committee strongly encourages the Secretary to revisit this organizational arrangement and to institute the appropriate changes necessary to ensure that functional responsibility for development and implementation of acquisition policy within the Department is consolidated in one place.

MACHINE TOOL INDUSTRIAL BASE

The committee continues to be concerned over the viability of the United States machine tool industry which is a critical component of national defense technology and industrial base. Therefore, the committee urges defense companies to support this vital component of the defense industrial base by purchasing domestically manufactured machine tool equipment wherever possible.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

LEGISLATIVE PROVISIONS

SECTION 901—REORGANIZATION OF OFFICE OF THE SECRETARY OF DEFENSE

As an important element of its initiative to produce greater efficiencies within Department of Defense operations in order to fund modernization and operational readiness shortfalls, the committee has begun a review the organizational and personnel practices of the Office of the Secretary of Defense and associated support organizations. The committee is concerned by the incongruity in trends between significant growth in the Office of the Secretary of Defense (OSD) and drastic military force structure and defense budget re-

ductions. During the ten year period from fiscal years 1985 to 1995, the number of civilian personnel assigned to OSD has increased by 22 percent while combat force structure has been reduced by 40 percent and real defense spending by 34 percent.

While these statistics can only serve as a coarse measure of OSD's management efficiency, they do provide sufficient basis for the committee to direct certain corrective steps. Accordingly, the committee recommends a provision (sec. 901) that would direct the Secretary of Defense to reduce the number of personnel assigned to OSD by 25 percent over a four year period.

The committee further understands that in addition to the official number of personnel assigned to OSD, the Department has informally expanded OSD to include an additional 4,000 personnel through the creation of so-called "direct support activities" that effectively serve as an extended OSD staff. The provision recommended by the committee would require that direct support activities and similar functions be included in the mandated personnel reduction.

Section 901 would also reduce the number of authorized assistant secretaries of defense by two, from the current level of eleven to nine. The committee rejects the Administration request to further increase the number of assistant secretaries to twelve and points out that the Administration already previously increased the total number of Presidentially-appointed civilian officials by a considerable number to oversee a drastically reduced Department of Defense operation.

In order to allow for an orderly transition to downsized and more efficient OSD operation, section 901 would also require that the Secretary of Defense provide Congress with a comprehensive reorganization plan for his office. This plan should include a detailed presentation of the steps the Secretary recommends to implement the 25 percent reduction. The plan should also actively examine a number of functional consolidation and management options to increase efficiency while reducing personnel resources.

Finally, to provide the Secretary with the broadest possible range of organizational options to consider, section 901 would repeal a number of the current statutorily mandated offices and positions within OSD. The committee notes that repeal of these provisions does not require and should not be interpreted to mean the elimination of any of the affected offices. The committee recommends this action without prejudice toward any of these offices and intends only to extend the Secretary the broadest possible latitude in pursuing reorganizational efforts free of legislatively-driven constraints. Accordingly, the committee fully expects the Secretary to reciprocate by taking advantage of the latitude provided by this provision through the aggressive exploration of all possible reorganization and streamlining opportunities.

SECTION 902—RESTRUCTURING OF DEPARTMENT OF DEFENSE ACQUISITION ORGANIZATION AND WORKFORCE

The committee notes that almost half of the 867,000 civilian personnel currently employed by the Department of Defense are assigned to defense acquisition organizations. The size and breadth of the current defense acquisition infrastructure consumes enor-

mous budgetary resources that could otherwise be utilized to meet quality of life core readiness and modernization shortfalls.

Accordingly, the committee recommends a provision (sec. 902) that would require the Secretary of Defense to reduce the number of personnel assigned to defense acquisition organizations by 25 percent over a four year period. The provision would also require a reduction of 30,000 personnel be achieved during fiscal year 1996. In addition, the provision requires the Secretary to develop and submit a plan to Congress that:

(1) reduces the number of personnel assigned to defense acquisition organizations by 25 percent, exempting certain depot-maintenance employees;

(2) eliminates duplication of functions among existing defense acquisition organizations;

(3) maximizes opportunities to consolidate defense acquisition organizations to reduce management overhead;

(4) takes full advantage of simplified procedures and other procedural changes established by the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) and other internal DOD initiatives;

(5) assesses the consolidation of certain functions of the Defense Contract Audit Agency and the Defense Contract Management Command;

(6) assesses outsourcing of a significant portion of the workload performed by the Defense Contract Audit Agency and other acquisition defense agencies; and

(7) assesses consolidating or eliminating selected defense acquisition organizations.

The committee is determined to realize significant reductions and increased efficiencies from the defense acquisition infrastructure. However, the committee has deliberately chosen not to direct specific organizational actions yet in order to allow the Secretary the opportunity to evaluate all possible options and provide Congress with his plan to achieve this broad objective. If the Secretary's plan proves inadequate, the committee will involve itself more directly and in more detail with regard to streamlining the defense acquisition infrastructure.

SECTION 903—PLAN FOR INCORPORATION OF DEPARTMENT OF ENERGY NATIONAL SECURITY FUNCTIONS IN DEPARTMENT OF DEFENSE

This section would require the Secretary of Defense to submit a report to Congress on the Secretary's plan for the incorporation into the Department of Defense of the national security programs of the Department of Energy which could be implemented if the Department of Energy is abolished and those programs are transferred to the Department of Defense.

SECTION 904—CHANGE IN TITLES OF CERTAIN MARINE CORPS GENERAL OFFICER BILLETS RESULTING FROM REORGANIZATION OF THE HEADQUARTERS, MARINE CORPS

This section would change references in current law to reflect the reorganization of Headquarters Marine Corps.

SECTION 905—INCLUSION OF THE INFORMATION RESOURCES MANAGEMENT COLLEGE IN THE NATIONAL DEFENSE UNIVERSITY

This section would authorize the Secretary of Defense to establish a personnel system for the Information Resources Management College that is consistent with the personnel system for other institutions within the National Defense University.

SECTION 906—EMPLOYMENT OF CIVILIANS AT THE ASIA-PACIFIC CENTER FOR SECURITY STUDIES

This section would authorize the Secretary of Defense to establish a personnel system for the Asia-Pacific Center for Security Studies. The committee notes that the authority that would be granted under this provision is the same granted to the Secretary for the George C. Marshall European Center for Security Studies by section 923 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

SECTION 907—CONTINUED OPERATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

The President's budget request proposed a phased closure of the Uniformed Services University of the Health Sciences (USUHS).

During committee hearings on military medical readiness, the General Accounting Office and the Congressional Budget Office reported on weaknesses in military wartime medical readiness. The service surgeons general, at these hearings, reported on the importance of USUHS in effectively training military physicians to meet both peacetime and wartime medical readiness requirements.

This section would require the Secretary of Defense to budget for ongoing operations at USUHS. The committee believes that USUHS is an institution of professional education vital to the education and medical readiness training of significant numbers of uniformed services health-care providers.

SECTION 908—REDESIGNATION OF ADVANCED RESEARCH PROJECTS AGENCY

In 1993, the Defense Advanced Research Projects Agency (DARPA) was renamed to the Advanced Research Projects Agency (ARPA) by dropping "defense" from the title. Accompanying the change, the agency was directed to assume significantly increased responsibilities for managing defense reinvestment programs. This change resulted in a doubling of the Agency's budget and a dilution in the focus the agency once provided to national security programs and priorities. The committee believes that this unwarranted shift of the agency away from its important national security mission is improper and has contributed to the diversion of scarce defense research and development resources from defense priorities to ill-defined dual-use and other civilian applications. Accordingly, the committee recommends a provision (sec. 908) that would direct that ARPA be redesignated as the Defense Advanced Research Projects Agency (DARPA) to properly reflect its mission and responsibilities as a combat support agency of the Department of Defense. The committee also recommends the Department consider transitioning the oversight and management of Department-wide defense rein-

vestment and dual-use programs to the Office of the Under Secretary of Defense for Acquisition and Technology. The committee recommends that, where practical, all existing ARPA letterhead, logo, and monogrammed expendable supplies shall be used until expended.

ITEMS OF INTEREST

GROWTH IN LEGISLATIVE LIAISON OPERATIONS

The committee notes with concern the increasingly large number of legislative liaison operations and associated personnel within the Department of Defense. The committee notes that each of the regional Commanders-in-chief and many of the major service commands have independent legislative liaison offices in the Washington area. For example, the Army has separate Washington legislative liaison offices for Forces Command (FORSCOM), Training and Doctrine Command (TRADOC), U.S. Army in Europe, U.S. Forces in Korea, and Allied Command Europe. Similarly, the Navy's Naval Ocean Systems Center, Navy Weapons Center, Pacific Test Center and other similar organizations each have legislative liaison operations. During a period of downsizing and budget constraint, the committee finds it difficult to understand how such legislative liaison operations can be justified and wonders why this function cannot be more efficiently performed through the service secretary's legislative liaison operation.

Therefore, the committee directs the Secretary of Defense to provide a report to the Congressional defense committees by January 1, 1996, identifying all legislative liaison offices operating in the National Capital Region as of January 1, 1995. The report should include the number of personnel assigned to each of the identified legislative liaison offices, either permanently assigned or on temporary duty. The report should also include an individual evaluation of whether the function performed by each individual service liaison operation could be more efficiently performed by the service secretary's office.

TITLE X—GENERAL PROVISIONS

SUBTITLE A—FINANCIAL MATTERS

SECTION 1001—TRANSFER AUTHORITY

This section would permit the transfer of amounts of authorizations made available in Division A of the bill for any fiscal year to any other authorization made available in Division A upon determination by the Secretary of Defense that such a transfer would be in the national interest. The provision would provide the authorization for reprogramming involving the transfer of authorization between amounts authorized as set out in bill language.

The authority to transfer could only be used to provide authorization for higher priority items than the items from which authorization was transferred and could not be used to provide authorization for an item that was denied authorization by the Congress. The Secretary of Defense would be required to notify Congress promptly of transfers. The total amount of transfers would be limited to $2

billion. Historically, the transfer authority authorized has changed as follows:

	Billion
FY85–88	$2.00
FY89–91	3.00
FY92	2.25
FY93	1.50
FY94–95	2.00

SECTION 1002—INCORPORATION OF CLASSIFIED ANNEX

This section would provide the language required to incorporate the Classified Annex prepared by the Committee on Armed Services into the National Defense Authorization Act.

SECTION 1003—IMPROVED FUNDING MECHANISMS FOR UNBUDGETED OPERATIONS

The committee has observed with alarm, the continuing practice by the Administration of engaging in costly peacekeeping and humanitarian contingency operations without properly budgeting the necessary resources. U.S. military operations resulting from the aftermath of the Persian Gulf War, in Somalia, Bosnia, Rwanda, Haiti, Cuba and other locales have imposed significant fiscal burdens on the Department at a time of declining resources. Lacking the budgeted resources, the Department has resorted to the damaging practice of financing the cost of these operations from the military services' operational readiness accounts—leading to the cancellation or deferral of training exercises, necessary equipment maintenance, and other routine activities that directly and significantly degrade force readiness.

Given that the Department of Defense budget has historically only provided for the equipping and training of U.S. military forces and not for the execution of operations, the challenges posed by paying for unplanned operations are not new. However, what is new is the severely constrained defense budget, the quasi-permanent nature of many of the current operations, and the increased frequency with which the Administration continues to deploy U.S. military forces in support of UN or other "peace operations." With over six months before fiscal year 1996 commences, the Secretary of Defense has already estimated the unbudgeted fiscal year 1996 costs to the Department for ongoing contingency operations to be $1.5 billion. The true costs will surely be higher.

In recognition of this problem, the Administration's fiscal year 1996 legislative proposal did contain a request to grant the Secretary of Defense extraordinary authority to obligate funds absent appropriations under certain conditions associated with contingency operations. The committee rejects this proposal as an inadequate stop-gap measure that fails to address the broader policy issues involved. Instead, the committee recommends a provision (sec. 1003) that would more fully address this matter in two components: an interim funding mechanism for unforseen and unbudgeted contingency operations, and mandated procedures to properly budget for ongoing contingency operations.

To address unforseen and unbudgeted operations, the provision would revise existing provisions of law to allow the Secretary of Defense to draw upon the Defense Business Operating Fund (DBOF)

along with a targeted transfer authority of $200 million from non-readiness accounts, as interim financing mechanisms for operations while securing approval of a supplemental appropriations request which would be required to be submitted within 30 days of the commencement of an operation. The provision would require that any liabilities incurred by the DBOF or other accounts from which funds are transferred must be restored with the funds provided through supplemental appropriations legislation. The committee directs that any transfer of funds from the designated accounts identified by this provision follow established prior approval reprogramming procedures.

To address ongoing but unbudgeted operations, the provision would require that, for any operation that is ongoing at the beginning of a given fiscal year, the President must submit with the next fiscal year's budget request a specific funding request for that operation. Should the President fail to fulfill this requirement, funding authority for that operation would be automatically denied when that next fiscal year commences.

Through this provision, the committee intends to compel the Administration to properly budget for the costs of expected and ongoing operations up-front and to abandon the current practice of seeking Congressional approval for supplemental funds after-the-fact. This provision would thus grant Congress the opportunity to properly evaluate the costs and merits of ongoing operations before the beginning of the fiscal year in question. While the provision would grant the President certain latitude in how the funding request for such operations should be submitted, the committee strongly believes that funding for such operations should not come from within the national defense budget function (050) discretionary spending caps.

SECTION 1004—DESIGNATION AND LIABILITY OF DISBURSING AND CERTIFYING OFFICIALS

This section would provide for the designation and appointment of disbursing and certifying officials within the Department of Defense.

SECTION 1005—AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1995 DEFENSE APPROPRIATIONS

This section would authorize fiscal year 1995 programs that received appropriations but no authorization.

SECTION 1006—AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1995

This section would extend authorization to those items appropriated by the Fiscal Year 1995 emergency supplemental appropriations legislation.

SECTION 1007—PROHIBITION ON INCREMENTAL FUNDING OF PROCUREMENT ISSUES

This section would impose a permanent prohibition on the use of partial or incremental funding of procurement items.

SUBTITLE B—NAVAL VESSELS AND SHIPYARDS

SECTION 1021—CONTRACT OPTIONS FOR LMSR VESSELS

This section recommends that the Secretary of the Navy negotiate a contract option price for a seventh LMSR at each of the two shipyards that have construction contracts.

SECTION 1022—VESSELS SUBJECT TO REPAIR UNDER PHASED MAINTENANCE CONTRACTS

This section would require the Secretary of the Navy to ensure that any existing contract for phased maintenance of any class or type of vessels will remain in effect without regard to any change of an operating command for these vessels.

SECTION 1023—CLARIFICATION OF REQUIREMENTS RELATING TO REPAIRS OF VESSELS

This section would permit the overhaul, repair, or maintenance of any vessel under the jurisdiction of the Secretary of the Navy to be performed in Guam.

SECTION 1024—NAMING OF NAVAL VESSEL

This section would express the sense of Congress that the Secretary of the Navy should name an appropriate Navy ship the U.S.S. Joseph Vittori in honor of Marine Corporal Joseph Vittori, who was posthumously awarded the Congressional Medal of Honor.

SECTION 1025—TRANSFER OF RIVERINE PATROL CRAFT

This section would permit the Secretary of the Navy to transfer a U.S.S. Swift-class riverine patrol craft to the Tidewater Community College, Portsmouth, Virginia, for scientific and educational purposes.

SUBTITLE C—OTHER MATTERS

SECTION 1031—TERMINATION AND MODIFICATION OF AUTHORITIES REGARDING NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION PROGRAMS

This section would repeal portions of chapter 148, title 10, United States Code, that provide similar authorities for dual-use, cost-shared programs as provided elsewhere in law.

SECTION 1032—REPEAL OF MISCELLANEOUS PROVISIONS OF LAW

This section would repeal miscellaneous provisions of law that have expired, are obsolete, are required to conform to other initiatives in the bill or have been suggested by the Administration and accepted by the Committee for repeal.

ITEMS OF SPECIAL INTEREST

COUNTER-DRUG ACTIVITIES

Overview

The fiscal year 1996 budget request for Department of Defense counter-drug activities is $680.4 million. This represents a net decrease of $40.9 million from the fiscal year 1995 appropriated level of $721.3 million. The committee recommends authorization of the Department's request as follows:

DRUG INTERDICTION & COUNTER DRUG ACTIVITIES, OPERATION AND MAINTENANCE

[In thousands of dollars]

FY 96 Drug Interdiction & Counter-Drug Request	680,400
Source Nation Support	127,300
Dismantling Cartels	64,300
Detection and Monitoring	111,700
Law Enforcement Agency Support	279,300
Demand Reduction:	97,800
Reductions:	
Community outreach programs	8,236
Increases:	
Tethered Aerostat Radar System (PE 0102445F)	1,500
Counterdrug Analysis (PE 0305889L)	1,200
SouthCom Radars (Project #4419)	1,500
SOF CD Support (Project #6415)	2,536
CARIBROC Comms (Project #3207)	1,500
Recommendation	680,400

Counter-drug intelligence budget

The committee commends the Department for responding to the concerns expressed last year regarding the increasing share of the DOD counter-drug budget that resides within the intelligence budget. The committee notes progress made in this area as reflected by the fiscal year 1996 budget request and urges the Department to continue the process of migrating those elements and functions in the counter-drug account currently classified as intelligence items to a non-intelligence designation.

Support for law enforcement

The committee continues to support the Gulf States Counter-drug Initiative and commends the Department of Defense and the Coordinator for Drug Enforcement Policy and Support for requesting funding for this program in the fiscal year 1996 budget request. The committee urges the Department to continue to actively support this program in the future.

CHEMICAL-BIOLOGICAL WARFARE DEFENSE PROGRAM

The potential for the proliferation of weapons of mass destruction and the spread of chemical and biological weapons technology and delivery capabilities heighten committee concerns on the chemical and biological defense readiness of U.S. forces. In meeting the changing and evolving threat, the committee agrees that a strong chemical-biological defense program is an essential part of our national strategy, both for ensuring the capability of US military

forces to fight on some future battlefield and as a major element of our counterproliferation program.

The committee has reviewed the reports on the chemical and biological warfare defense program, required by title XVII of the National Defense Authorization Action for Fiscal Year 1994 (Public Law 103–160), and is pleased to note the measures being taken by the Office of the Secretary of Defense and the military departments. Nevertheless, in light of the most likely threat scenarios, the committee continues to be concerned with the readiness of U.S. forces and with certain aspects of the chemical and biological defense program.

The committee notes that the Department has made great strides in establishing a consolidated chemical-biological defense program with the Army as executive agent and with participation of all military services. The Department should exploit this initial success and continue efforts to ensure that an effective program management system drives the development of joint NBC defense doctrine, training, tactics, procedures and equipment, and the phasing out of service-unique programs. The committee is particularly concerned that the special training support at the Chemical and Biological Defense Command, the Army Chemical School, and the Live Agent Chemical Defense Training Facility in preparation for implementation of the Chemical Warfare Convention be maintained.

The committee understands that the General Accounting Office is examining the ability of the military services to perform their missions in a chemical and biological warfare environment, and directs that the Comptroller General provide the committee by March 1, 1996, a report describing the Department's progress in addressing and solving shortfalls in chemical and biological warfare defense capabilities.

The committee is concerned that the department lacks a joint, integrated system to maintain the visibility of chemical and biological defense equipment below the wholesale level and also lacks a standardized war reserve program for such equipment. The committee understands that an assessment of this problem is underway within the Department of Defense. The committee feels that there is potential for substantial costs savings if a serious effort is undertaken to consolidate the numerous chemical/biological depot supply and maintenance activities of the various services.

The committee is disturbed by reports of deficiencies in the procurement and serviceability of protective masks and the lack of emphasis on the maintenance, training, and use of chemical-biological protective equipment. The committee directs the Secretary of Defense to take immediate action to ensure that protective masks and other individual chemical-biological protective equipment are serviceable, provide the level of protection required, and are properly maintained. The committee further directs that the Secretary of Defense, within 60 days of the enactment of this Act, provide a report to the congressional defense committees on the actions being taken to assess the situation and correct any deficiencies identified, additional actions under consideration, and additional resources and authority that may be required.

The Department must place increased emphasis on chemical-biological defense training both in units and in joint training of commanders and chemical specialists. The committee believes that the military services have not provided sufficient operations and maintenance funding for chemical and biological training and procurement. Consequently, the committee recommends an additional $50 million in operations and maintenance funding to remedy this deficiency as follows:

Operations and Maintenance, Army (OMA) $10 million each in Chemical Defense Training and Chemical Medical Defense Training

Operations and Maintenance Navy, Marine Corps and Air Force (OMN, OMMC, and OMAF) $5 million each in Chemical Defense Training and Chemical Medical Defense Training

The committee views the program for providing adequate vaccines to protect US military forces as critical. In light of the threat, the committee believes that the biological defense program, including establishment of an effective vaccine development and production capability, should be among the Department's highest defense priorities. The committee directs the Secretary of Defense to address the establishment of this capability as an urgent matter and report the plan for providing such a capability within 60 days of the enactment of this Act.

The Department has made significant improvements in the coordination and integration of service chemical and biological defense research, development, and acquisition. However, particular emphasis needs to be given to chemical and biological decontamination technology and the development and demonstration of advanced point and stand-off detection of chemical and biological agents. To address these and other concerns, the committee recommends increased authorizations to the budget request as indicated below:

[In millions of dollars]

PE 61384BP Basic research in advanced chemical biological sensor and monitoring technology:	
Non-medical chemical biological defense	3.0
Medical chemical defense	1.2
Medical biological defense	0.4
PE 62384BP—Exploratory development:	
Medical chemical defense	1.2
Medical biological defense	0.2
Non-medical chemical/biological defense:	
Enhanced chemical/biological detectors	2.9
Enhanced individual protection	1.2
High altitude/standoff remote chemical monitoring	18.0
PE 63384BP—Advanced development:	
Medical chemical defense life support	1.1
Medical biological defense vaccines	0.4
Chemical/biological defense advanced technology:	
Enhanced chemical and biological detection	10.8
Aircraft decontamination	0.3
PE 63884BP Demonstration/validation:	
Light NBC defense reconnaissance system	2.0
Large scale area decontamination	2.4
PE 64384BP Engineering & manufacturing development:	
Automated chemical agent detector	2.0
Aircrew eye/respiratory protection	1.0
Chemical-biological protective shelter	3.0
Multi-purpose integrated chemical agent detector	6.0

ARMY EXPERIMENTAL FORCE

The committee notes with approval the Army's designation of its Force XXI Experimental Force, and fully supports the intent to test new organizations, warfighting and operational concepts, training and equipment in order to enhance the lethality, survivability, sustainability, deployability and versatility of the future force.

The committee believes that the Experimental Force can serve as an important tool for investigating the promise of the revolution in military affairs that may be possible through the rapid adaptation of information technologies to the battlefield. By contrast to simulations and various command-post exercises, the Experimental Force is designed to put new technologies into the hands of soldiers so that they may seek practical solutions to the tactical challenges that confront them. Success in such efforts will allow the United States to retain the overwhelming advantage in conventional forces it now enjoys and which creates a pillar of national geopolitical strength. The committee particularly approves of the "rolling baseline" concept for quick integration of new concepts and technologies as appropriate.

The committee also has a number of concerns regarding this promising effort. The Experimental Force must be given proper resources in order to carry out its mission in a timely fashion. The committee notes that many crucial items of equipment intended for the Experimental Force trials, such as advanced unmanned aerial vehicles, will not be available for years to come. Also, such practical experiments should be given due consideration by the Secretary of Defense in preparing future defense budgets, and the other services be encouraged to undertake such projects which combine technological, doctrinal and organizational experimentation, particularly in regard to the power projection missions that are central to the national security strategy.

The committee encourages the Department of Defense to report regularly on the conduct of Experimental Force exercises, as well as related Force XXI events and exercises.

INTEGRATION OF NATIONAL SECURITY SPACE PROGRAMS

The committee strongly endorses the Department's efforts to improve the coordination and integration of defense and intelligence space activities. The committee expects that the consolidation of defense space policy and acquisition oversight responsibilities and the establishment of a single focal point for space activities under the new Deputy Under Secretary of Defense for Space, reporting to the Under Secretary of Defense for Acquisition and Technology, will play a crucial role in achieving the normalization and integration of space activities within DOD.

The committee believes that enhanced support for military operations and cost savings to the nation can be achieved by the consolidation of functions for defense and intelligence space architectures and acquisition management. In this regard, the committee strongly supports the statement of the President's nominee for Director of Central Intelligence regarding the intention "to move immediately in coordination with the Secretary of Defense to a management structure that requires future systems to take account of

the need, costs, and acquisition of both military and classified satellite systems in an integrated way."

The committee directs the Secretary of Defense to provide, no later than March 31, 1996, a report on national security space organization and management that addresses responsibilities and functions for: (1) development of an integrated national security space architecture; and (2) integrated acquisition of national security space programs.

REPORT ON NUCLEAR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE

The committee is aware of an on-going study within the Office of the Secretary of Defense to examine nuclear command, control, communications, and intelligence (C3I) issues as a follow-up to the Nuclear Posture Review. The committee directs the Secretary of Defense to provide to the Congressional defense committees not later than February 15, 1996, a report on the study's findings, conclusions, and recommendations. The Secretary's report should also describe each of the programmatic and policy options considered, the cost and other implications of each of the options, and the reasons why the Department accepted or rejected each alternative.

FEDERAL EMERGENCY MANAGEMENT AGENCY FUNDING

The committee believes that the civil defense activities of the Federal Emergency Management Agency (FEMA) no longer have a national security emphasis. Accordingly, the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) sought to move all of FEMA's civil defense activities out of the National Defense budget function. The committee is disappointed that the President's budget for fiscal year 1996 does not appropriately reflect the transfer of all FEMA activities into other domestic budget accounts. Accordingly, the committee provides no authorization of appropriations for the civil defense activities of FEMA as part of the fiscal year 1996 defense authorization budget.

TITLE XI—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

OVERVIEW

The budget request contained $371 million for the Cooperative Threat Reduction (CTR) program to continue activities to dismantle weapons of mass destruction and reduce the threat of weapons proliferation in the New Independent States of the former Soviet Union. Of this total, $194 million was requested for destruction and dismantlement; $71.5 million for chain of custody and nonproliferation activities; $75 million for demilitarization and defense conversion activities; and $30.5 million for other program support. The committee reiterates its strong support for the accelerated dismantlement and destruction of strategic offensive weapons in the states of the former Soviet Union.

The committee recommends a total of $200 million for CTR activities in fiscal year 1996, a reduction of $171 million from the requested amount. The committee approves the request for all dis-

mantlement, destruction and weapons security activities, with the exception of the $104 million request to begin construction of a Russian chemical weapons destruction facility. Other changes to the request include: denial of funds for the construction of a fissile material storage facility in Russia; denial of authorization for Demilitarization Enterprise Fund activities; and a reduction of $4 million for other program support activities, consistent with the overall reduction in the program's funding.

The committee is concerned with the expansion of authorities in the CTR program to conduct a wide range of non-dismantlement, non-destruction and non-weapons security activities. The committee is further concerned with Congress' ability to conduct effectively its oversight responsibilities of CTR activities once funds have been authorized and appropriated. In this context, the committee expresses its alarm over the fact that the Department of Defense has conducted only three audit and examination visits to verify the whereabouts and condition of U.S. assistance delivered to the states of the former Soviet Union since the program's inception over four years ago. This concern has been heightened by recent General Accounting Office (GAO) reports that CTR funds may have been provided to institutions and individuals in Russia who remain involved in ongoing work on weapons of mass destruction. Accordingly, the extent to which there is a direct causal relationship between the CTR program and on-going dismantlement and destruction activities in the states of the former Soviet Union is difficult to verify with certainty.

CHEMICAL WEAPONS DESTRUCTION FACILITY

In denying the request of $104.0 million for construction of a chemical weapons destruction facility, the committee expresses its belief that this project is premature for a number of reasons. First, Russia has refused to agree to destroy the most lethal and militarily useful stocks of chemical weapons in its inventory first. The committee believes that if the U.S. ultimately pays for Russian chemical weapons destruction, then Russia should destroy its militarily useful stocks first.

Second, Russia has refused to accept U.S. plans to build an incinerator to burn its chemical weapons stocks and, instead, has insisted on proceeding with an unproven technology and process know as neutralization—a process which may create more hazardous materials than it destroys.

Third, a recent GAO draft report commissioned by the committee noted, "many issues need to be resolved before large-scale funding can be undertaken. Requirements for fiscal year 1996 funding appear to be contingent upon completion of several tasks—most importantly the joint evaluation of chemical weapons destruction technology. DoD's fiscal years 1996 and 1997 budgets assume the results of the joint evaluation will be favorable and completed on schedule by March 1996. Further delays during fiscal year 1995 and early into 1996 could reduce the need and impact the justification for the budget requests. Also, to date, CTR program officials remain uncertain about specific requirements for fiscal year 1996 funding and how much of the funding they will be able to obligate during the fiscal year."

Fourth, Russia has yet to ratify the Chemical Weapons Convention, has made no specific commitment to the U.S. to carry out the terms and conditions of the U.S.-Russia bilateral chemical weapons destruction agreement, signed in 1990, and may still be developing new chemical weapons.

Finally, a comprehensive implementation plan has yet to be signed to govern these activities and the total U.S. financial obligation remains unknown. Until the above matters are resolved, the committee will not support funding for this project.

FISSILE MATERIAL STORAGE FACILITY

While the committee approved the request of $6 million for continued design activities associated with a fissile material storage facility in Russia, $23 million in requested construction funds are denied for the following reasons. First, according to U.S. intelligence sources, Russia may already possess sufficient fissile material storage capacity, particularly if Russian Ministry of Defense storage space for intact weapons or Russian deep underground bunkers are taken into account. If so, the obligation of funds for construction of a new storage facility would seem to be unnecessary.

Second, Russia and the U.S. have yet to conclude agreements for additional design and construction funds and work out arrangements for the use of a U.S.-hired integrating contractor. Russia has also failed to provide a construction schedule and more detailed design information to allow the U.S. to define equipment requirements.

Third, GAO has noted that the estimated costs of the facility have increased dramatically since November 1993, with estimates of the U.S. cost-share having escalated accordingly. At a minimum, the project must be baselined before any significant commitment of U.S. construction funding is made.

DEMILITARIZATION ENTERPRISE FUND

The committee denies the request for the Demilitarization Enterprise Fund in fiscal year 1996 and recommends a provision (sec. 1103) that would repeal authority for these activities.

The committee remains skeptical of CTR funded activities intended to assist in the "conversion" of Russian military enterprises into non-military enterprises. Even if defense conversion in Russia is feasible, a debateable proposition, the committee believes that such activities more appropriately fall into the category of either foreign aid or economic assistance and should not be the funding responsibility of the Department of Defense or the CTR program.

According to GAO, "DOD focussed on initiating [defense conversion] projects at former Soviet Union firms and facilities that once produced weapons of mass destruction, but there is only one facility where an active production line is being converted to civilian use." Moreover, the committee is concerned that CTR activities in this area have not given adequate priority to privatization of Russian industrial enterprises. In fact, it could be argued that CTR conversion activities may be hindering privatization by subsidizing state-run military enterprises. If so, this result would be in direct con-

tradiction to the Department's assertions that CTR defense conversion activities have enhanced Russia's prospects for longer-term economic reform.

The committee is also concerned with the potentially astronomical costs associated with U.S. efforts to convert any significant portion of the Russian defense industry to civilian production. Hundreds of billions of dollars and decades of spending will be required to accomplish this task. The committee does not endorse the perspective that the Department of Defense has a financial responsibility to pay for the transformation of Russia's highly militarized economy or for the retraining of the workers in the Russian military-industrial complex. This is particularly true in view of the fact that Russia maintains an active, aggressive and well funded strategic modernization program to this day.

Based on communication with the Department of Defense, it is the committee's understanding that none of the requested fiscal year 1996 CTR funding is intended to pay for Russian housing or environmental restoration activities. With this understanding, the committee has opted not to include any statutory prohibition on such expenditures.

PEACEKEEPING ACTIVITIES

The committee recommends a provision (sec. 1104) that would prohibit the obligation or expenditure of CTR funds for the purpose of conducting peacekeeping exercises or any peacekeeping-related activities with Russia during fiscal year 1996. This provision results from the committee having been notified by the Assistant Secretary of Defense for International Security Policy in May 1994 that the Department used CTR funds during the last fiscal year to conduct several peacekeeping field training exercises. Such activities should not be funded out of the CTR program since they have little to do with nuclear dismantlement, destruction or weapons security or with halting the proliferation of weapons of mass destruction.

IMPROVED OVERSIGHT

To facilitate the committee's ability to better oversee permitted CTR activities, the committee recommends several provisions. First, the committee recommends a provision (sec. 1107) that would require the Secretary of Defense to submit an annual report accounting for U.S. CTR assistance, as well as a provision (sec. 1106) that would require prior notification of the obligation of CTR program funds. The committee also recommends a provision (sec. 1105) that would modify the certification that the President currently must make in order to provide assistance under the CTR program. This section would require proposed recipients of CTR assistance to meet certain minimum eligibility standards, such as compliance with arms control agreements, and respecting the rights of minorities, and other related criteria.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SUBTITLE A—PEACEKEEPING PROVISIONS

SECTION 1201—LIMITATION ON EXPENDITURE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED STATES FORCES PLACED UNDER UNITED NATIONS COMMAND OR CONTROL

Presidential Decision Directive 25 (PDD–25) signed by President Clinton in May of 1994 contains a number of policy initiatives intended to promote peacekeeping as an important instrument of the Administration's national security policy. Summary documents and extensive public and private briefings on this policy initiative, make clear to the committee that the Administration has adopted a policy of allowing the placement of U.S. armed forces under the operational control of foreign commanders when engaged in peacekeeping operations.

The Administration continues to stress that the President will retain "command" of U.S. forces at all times. However, the usage of the term "command" in this context refers to the administrative control of military forces which has never been an issue of debate or contention. On the other hand, the practice of ceding "operational control" of U.S. military forces to non-U.S. commanders remains a highly controversial and troubling policy. While certain U.S. military units have operated under the operational control of other nations, these instances have been rare and usually as part of larger coalition military operations where the U.S. retains overall operational command of the theater of operation. Further, these instances occurred during traditional military operations that allowed a high degree of planning and coordination to minimize the inherent complications resulting from mixed command chains.

By contrast, the concept of ceding operational control of U.S. forces to a United Nations peacekeeping command is a relatively recent practice that has thus far yielded decidedly mixed results. As demonstrated during the UNOSOM II operation in Somalia, peacekeeping operations place a high premium on the ability to rapidly employ effective military force in response to unplanned circumstances. The tactical demands of such operations tend to stress and exacerbate the limitations of mixed-nationality operations resulting from the usually significant cultural, language, doctrine, and training differences among the participating national contingents. While only U.S. logistics forces were placed under UN operational control during UNOSOM II, the unanimous view of U.S. commanders interviewed by the committee during its review of the Somalia operation was that UN mixed-nationality command chains are inappropriate for demanding UN operations.

Therefore, the committee recommends a provision (sec. 1201) that would regulate the circumstances under which the President could commit U.S. forces under UN command or control. This provision would require that before U.S. forces may be deployed under the command or operational control of the UN, the President must first certify to the Congress that 1) such a command arrangement is necessary to protect U.S. national security interests, 2) the commander of the U.S. force involved will retain the right to report independently to U.S. military authorities and to decline to comply

with orders judged to be illegal, military imprudent or beyond the mandate of the U.S. mission, 3) the U.S. force involved will remain under U.S. administrative command, and 4) the U.S. will retain the authority to withdraw the U.S. force involved and take action it considers necessary to protect this force if it is engaged.

While this provision seeks to ensure that any deployment of U.S. forces under UN command or control is made with a clear and unambiguous understanding of the right of the United States to withdraw those forces at any time and to take any action considered necessary to protect such forces, the committee recognizes that any such decision to withdraw deployed U.S. forces should be made with due regard and consideration for the safety of U.S. and other national contingents deployed in any such given operation.

The provision would further require the President to submit a report along with the aforementioned certification providing: 1) a description of the national security interests that require such a command arrangement, 2) the mission of the U.S. forces involved, 3) the expected size and composition of the U.S. forces involved, 4) the incremental cost to the U.S. of participation in the operation, 5) the precise command and control relationship between the U.S. forces and the United Nations command structure, 6) the precise command and control relationship between the U.S. forces involved and the U.S. unified commander for the region in which the forces will be operating, 7) the extent to which the U.S. forces involved will be relying on non-U.S. forces for self protection, and 8) the timetable for the complete withdrawal of the U.S. forces involved.

SECTION 1202—LIMITATION ON USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED STATES SHARE OF COSTS OF UNITED NATIONS PEACEKEEPING ACTIVITIES

Presidential Decision Directive 25 (PDD–25) proposes to change the manner in which the United States Government finances its annual assessed contribution to the UN for peacekeeping by having the Department of Defense pay for the U.S. costs of all Chapter VII operations and those Chapter VI operations involving U.S. troops. This so called "shared responsibility" arrangement was specifically rejected by the House Committee on Armed Services in the 103rd Congress during consideration of H.R. 4301, the National Defense Authorization Act for Fiscal Year 1995 and by the House of Representatives in adopting H.R. 7, the National Security Revitalization Act in February 1995.

Therefore, the committee denies authorization for the $65 million contained in the budget request for this purpose and recommends a provision (sec. 1202) that would specifically prohibit the expenditure of funds made available to the Department of Defense for voluntary or assessed financial contributions to the United Nations for the United States share of peacekeeping costs. The committee continues to strongly oppose the "shared responsibility" concept as it represents one more attempt to divert scarce defense resources toward a non-defense purpose.

SUBTITLE B—HUMANITARIAN ASSISTANCE PROGRAMS

SECTION 1211—OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS

This section would specify that all funding authorized by this Act for DOD humanitarian, disaster and overseas civic assistance programs shall be provided from the consolidated operations and maintenance Overseas, Humanitarian, Disaster, and Civic Aid (OHDACA) account established by title III of this bill. The committee recommends an authorization of $50 million for this account for fiscal year 1996.

SECTION 1212—HUMANITARIAN ASSISTANCE

This section would make technical corrections to existing provisions of law providing the Department of Defense to conduct humanitarian assistance activities. The provision would also repeal the authority to transfer DOD funds to the Secretary of State for the purpose of providing humanitarian assistance.

SECTION 1213—LANDMINE CLEARANCE PROGRAM

This section would consolidate the current Department of Defense authority to conduct humanitarian demining activities into existing civic assistance authorities in title 10, United States Code.

SUBTITLE C—OTHER MATTERS

SECTION 1221—REVISION OF DEFINITION OF LANDMINE FOR PURPOSES OF LANDMINE EXPORT MORATORIUM

This section would amend the current definition of landmine to clarify that remotely operated devices are not included for the purposes of the landmine export moratorium.

SECTION 1222—EXTENSION AND AMENDMENT OF COUNTERPROLIFERATION AUTHORITIES

This section would extend through fiscal year 1996 the authority for the Department of Defense to conduct the International Nonproliferation Initiative previously established in law. The provision would limit fiscal year 1996 funding for Department support to international nonproliferation activities, including UNSCOM support, to $15,000,000.

SECTION 1223—PROHIBITION ON USE OF FUNDS FOR ACTIVITIES ASSOCIATED WITH THE UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.

The committee is aware of ongoing discussions as part of the United States-People's Republic of China Joint Defense Conversion Commission. Concerns have been expressed, however, about whether these talks, and agreements reached therein, serve United States national security goals and objectives. In particular, concern has been expressed that agreements reached through the commission have led to U.S. assistance to Chinese firms that have direct ties to the People's Liberation Army (PLA), resulting in possible subsidies to the PLA. Based on these and other concerns, the com-

mittee recommends a provision (sec. 1223) that would prohibit the use of Department of Defense funds provided by this Act for activities associated with the United States-People's Republic of China Joint Defense Conversion Commission.

SECTION 1224—DEFENSE EXPORT LOAN GUARANTEES

This section would create a defense export loan guarantee program which, at no cost to the taxpayer, would provide American defense firms the ability to offer financing as part of the financial package for arms sales to certain specified countries.

SECTION 1225—ACCOUNTING FOR BURDENSHARING CONTRIBUTIONS

This section would authorize the United States to accept burdensharing contributions in the currency of the host nation or in dollars, and to manage it as a separate account, available until expended.

SECTION 1226—AUTHORITY TO ACCEPT CONTRIBUTIONS FOR EXPENSES OF RELOCATION WITHIN HOST NATION OF UNITED STATES ARMED FORCES OVERSEAS

This section would establish authority and procedures for the Secretary of Defense to accept contributions from host nations for the purposes of relocating United States armed forces within the host nation when such relocation is being accomplished at the convenience of the host nation and for the purpose of deploying United States troops to the host nation during contingency deployment.

SECTION 1227—SENSE OF CONGRESS ON ABM TREATY VIOLATIONS

This section would express the Sense of Congress regarding violations of the ABM Treaty by the former Soviet Union.

ITEMS OF SPECIAL INTEREST

REPORT ON NORTH KOREAN MILITARY POWER

The committee report on H.R. 4301, the National Defense Authorization Act for Fiscal Year 1995 (H. Rept. 103–499), directed the Secretary of Defense to task the Defense Intelligence Agency (DIA) to provide by January 1, 1995 an updated version of the unclassified report entitled ''North Korea: The Foundations of Military Power,'' published in 1991. The committee notes that the DIA has not yet fulfilled this request, and only recently received permission from the Office of the Secretary of Defense to begin this important project. This unacceptable delay is depriving the public of a valuable source of current, official, unclassified information at a crucial time in the debate over the future direction of United States national security policy toward North Korea. The committee once again directs the Secretary of Defense to provide to Congress as soon as possible, and no later than October 1, 1995, an updated version of the unclassified report in question.

AFRICAN CENTER FOR SECURITY STUDIES

To encourage a broader understanding on the African continent of military matters compatible with democratic principles and civil-

ian control, the committee directs the Secretary of Defense to develop an African Center for Securities Studies patterned after the George C. Marshall Center for European Security Studies located in Germany. The Secretary should ensure that the center offers advanced study and training in civil-military relations, the building of democratic institutions, and related courses to members of the United States military and to the militaries and defense civilian personnel of African nations. The Secretary should provide the Congressional defense committees with a plan on implementing this direction by December 1, 1995.

SHARING OF INTELLIGENCE WITH THE UNITED NATIONS

The committee continues to be concerned regarding the development and implementation of proper safeguards governing the sharing of U.S. intelligence materials with United Nations personnel and organizations, particularly in the conduct of UN peace operations. During the withdrawal of UN forces from Somalia, American troops discovered a large, unsecured cache of materials with significant potential to disclose intelligence sources and methods.

A review of these incidents by the Chairman of the Joint Chiefs of Staff concluded that U.S. documents found in the UN intelligence files should never have been provided to the UN, that U.S. information sanitization procedures were violated, and that UN security management and execution were unsatisfactory. Accordingly, the committee directs the Secretary of Defense to provide the Congressional defense committees with a report detailing: 1) the Secretary's plan to ensure that the breakdown in security procedures disclosed by UNOSOM II incident in Somalia is not repeated, 2) the status of corrective steps taken since the release of the U.S. Central Command review of this incident, 3) the status of efforts to develop standard UN guidance for information security (including, but not limited to receiving, handling, storing, and destroying sensitive information), and 4) the Secretary's assessment on the adequacy of UN intelligence information security for UN operations in Haiti and the former Yugoslavia.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

PURPOSE

The purpose of Division B is to provide military construction authorizations and related authority in support of the military departments during fiscal year 1996. As approved by the committee, Division B would authorize appropriations in the amount of $11,197,995 for construction in support of the active forces, reserve components, defense agencies, and the NATO security infrastructure fund for fiscal year 1996. A brief tabular summary of the authorizations provided in Division B for fiscal year 1996 follows:

Offset Folio 392 Insert Here

OVERVIEW

The military construction authorization request for fiscal year 1996 was introduced as H.R.1529 on May 2, 1995.

The Department of Defense requested authorization of appropriations of $6,579,073,000 for fiscal year 1996 for military construction and $4,125,221,000 for family housing construction and support. The committee recommends $6,878,840,000 for military construction and $4,319,155,000 for family housing construction and support for fiscal year 1996.

QUALITY OF HOUSING, INSTALLATIONS, AND FACILITIES

The committee is concerned about serious and critical shortfalls in the quality of military installations and facilities, including troop housing and military family housing. The committee notes that the construction and modernization of facilities and their upkeep and maintenance is a critical component of military readiness which has been underfunded in recent years. Shortfalls in the construction, repair and maintenance, and utilities accounts have exacerbated problems in the facilities infrastructure which has either deferred needed improvements or has diverted training and other operations and maintenance funds to pay for base maintenance and repair. Over the long-term, the cumulative effects of neglect have created a serious backlog in facilities construction and maintenance.

The committee believes that the funding proposed by the Administration for fiscal year 1996 is not adequate to begin to reverse this backlog. Consequently, the committee recommends a significant investment of funds above the budget request for real property maintenance and the military construction accounts.

The committee is pleased by the attention the Secretary of Defense has paid to the problems affecting military family housing, troop housing, and other quality of life improvements. The committee notes, however, that the limited request for funding of the military construction program led to difficult trade-offs which restricted funding for certain improvements, particularly troop housing.

The committee proposes to address these shortfalls with both short-term improvements and legislative changes to the military construction program to enhance public-private partnerships in the development of military family housing. The committee recommends an increase of $472 million above the budget request for troop housing, military family housing, and other quality of life enhancements. The committee also recommends a series of legislative authorities to encourage private-sector involvement in the development of military family housing.

BASE CLOSURE AND REALIGNMENT

The Department of Defense requested authorization of appropriations of $3,897,892,000 for fiscal year 1996 for activities associated with base closure and realignment. The committee recommends $3,897,892,000.

A tabular summary of the military construction projects included with the authorization of appropriations for fiscal year 1996 for the BRAC II and BRAC III accounts follows:

Offset Folios 395 to 400 Insert here

NATO SECURITY INVESTMENT PROGRAM

The Department of Defense requested authorization of $179,000,000 for the NATO infrastructure fund for fiscal year 1996. The committee recommends $161,000,000.

AUTHORIZATION FOR MILITARY CONSTRUCTION

The Department of Defense requested $6,579,073,000 for military construction and $4,125,221,000 for family housing for fiscal year 1996. Within the military construction request, $3,897,892,000 was requested for implementation of base closure and realignment actions.

The committee recommends authorization of $6,878,840,000 for military construction, including $3,897,892,000 for base closure implementation, and $4,319,155,000 for family housing.

TITLE XXI—ARMY

SUMMARY

The Army requested authorization of $472,724,000 for military construction and $1,381,096,000 for family housing for fiscal year 1996. The committee recommends authorization of $631,608,000 for military construction, $1,459,996,000 for family housing for fiscal year 1996, and $75,586,000 for the Homeowners Assistance Program.

LEGISLATIVE PROVISIONS

SECTION 2101—AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

This section contains the list of authorized Army construction projects for fiscal year 1996. The authorized amounts are listed on an installation-by-installation basis. The state list contained in this report is intended to be the binding list of the specific projects authorized at each location.

SECTION 2102—FAMILY HOUSING

This section would authorize new construction and planning and design of family housing units for the Army for fiscal year 1996.

SECTION 2103—IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

This section would authorize improvements to existing units of family housing for fiscal year 1996.

SECTION 2104—AUTHORIZATION OF APPROPRIATIONS, ARMY

This section would authorize specific appropriations for each line item contained in the Army's budget for fiscal year 1996. This section also provides an overall limit on the amount the Army may spend on military construction projects.

ITEMS OF SPECIAL INTEREST

REPAIR AND MAINTENANCE, ARMY

The committee is aware of serious safety and other deficiencies at Lake Tholocco Dam at Fort Rucker, Alabama. The committee is also aware of critical structural deficiencies of two bridges at Fort Knox, Kentucky. The committee urges the Army to initiate appropriate repair and maintenance at both installations.

The committee is also aware of a serious repair and maintenance backlog at Corpus Christi Army Depot, Texas which requires an extensive infrastructure renovation to offset deterioration to major mechanical, electrical and other systems. Many major infrastructure systems at the depot have reached the end of their useful lives and require major renovation, repair and upgrade. The committee urges the Army to initiate appropriate repair and maintenance of various buildings within the Corpus Christi Army Depot complex.

IMPROVEMENTS OF MILITARY FAMILY HOUSING

The committee recommends that, within authorized amounts for improvements of military family housing and facilities, the Secretary of the Army execute the following projects: $3,400,000 for Whole House Improvements at White Sands Missile Range, New Mexico; $10,000,000 for Whole Neighborhood Revitalization at Fort Bragg, North Carolina; and $19,000,000 for Whole Neighborhood Revitalization at Fort Campbell, Kentucky.

FORT DIX, NEW JERSEY

The committee notes that the Department has actively sought to locate certain non-Department of Defense activities on military installations when appropriate. These activities generally reimburse the Department for services provided by the host installation. This practice can help offset a portion of base operating expenses.

While generally supportive of this policy, the committee is concerned that it may be overused at certain military installations. Such overuse may detract and diminish the effectiveness of an installation in fulfilling its mission. In this context, the committee notes with concern recent efforts to place a youthful offender boot camp at Fort Dix, New Jersey. If permitted to locate at Fort Dix, the boot camp would represent the fourth corrections or youth-service program at this installation. The committee is concerned about the possible effects of an additional non-defense activity located at Fort Dix and would view unfavorably a decision by the Department to permit the establishment of a youthful offender boot camp at the installation.

TITLE XXII—NAVY

SUMMARY

The Navy requested authorization of $492,936,000 for military construction and $1,514,084,000 for family housing for fiscal year 1996. The committee recommends authorization of $588,243,000 for military construction and $1,576,618,000 for family housing for fiscal year 1996.

LEGISLATIVE PROVISIONS

SECTION 2201—AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

This section contains the list of authorized Navy construction projects for fiscal year 1996. The authorized amounts are listed on an installation-by-installation basis. The state list contained in this report is intended to be the binding list of the specific projects authorized at each location.

SECTION 2202—FAMILY HOUSING

This section would authorize new construction and planning and design of family housing units for the Navy for fiscal year 1996.

SECTION 2203—IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

This section would authorize improvements to existing units of family housing for fiscal year 1996.

SECTION 2204—AUTHORIZATION OF APPROPRIATIONS, NAVY

This section would authorize specific appropriations for each line item in the Navy's budget for fiscal year 1995. This section also provides an overall limit on the amount the Navy may spend on military construction projects.

ITEMS OF SPECIAL INTEREST

REPAIR AND MAINTENANCE, NAVY

The committee is aware of major structural deficiencies in the fire suppression station at the Philadelphia Naval Base, Pennsylvania, and believes that modifications are required to provide a safe and efficient facility. The committee recognizes that the fire suppression station is required to continue providing firefighting and emergency response services for personnel who will remain at the facility after the closure of the Philadelphia Naval Shipyard. The committee urges the Navy to undertake a survey of the facility and to initiate appropriate repair and maintenance of the fire suppression station.

UNSPECIFIED MINOR CONSTRUCTION

The committee recommends that, within authorized amounts for unspecified minor construction, the Secretary of the Navy execute the following projects: $950,000 for an alternate railway and $590,000 for relocation of a gas line at Marine Corps Logistics Base, Albany, Georgia.

PLANNING AND DESIGN

The committee recommends that, within authorized amounts for planning and design, $2,340,000 be used to complete design work for wharf improvements at Naval Station Mayport, Florida. The recommended design work would support shore power and utility upgrades, structural and mooring improvements, environmental improvements, and other site improvements at wharfs C–2 and F. This design work is necessary to accommodate the growing number

of activities situated and vessels homeported at Naval Station Mayport. The committee understands that the recommended design work will support both current activities at Naval Station Mayport as well as a possible upgrade of the installation to homeport a nuclear-powered aircraft carrier. In keeping with the latter interest, the committee urges that the specifications for this design work be consistent with those requisite to homeporting a nuclear-powered aircraft carrier at Mayport.

IMPROVEMENTS OF MILITARY FAMILY HOUSING

The committee recommends that, within authorized amounts for improvements of military family housing and facilities, the Secretary of the Navy execute the following projects: $14,575,000 for Whole House Revitalization at Naval Station Mayport, Florida; $15,300,000 for Whole House Revitalization, Phase I at Great Lakes Naval Training Center, Illinois; $8,795,000 for Whole House Improvements at Newport, Rhode Island; and $6,784,000 for Whole House Rehabilitation at Marine Corps Air Station, Beaufort, South Carolina.

POWER PLANT UPGRADE, PUBLIC WORKS CENTER, GUAM

The committee understands that the Navy and the Guam Power Authority (GPA) have shared the operating cost and use of power plants to service the Guam island wide power system as agreed in the Power Pool Agreement of 1972. The committee also understands that the Navy may seek to terminate the Agreement and divest itself of all operating responsibilities of the power systems. The committee notes that, as stated in the Agreement, the Navy must upgrade the Piti Power Plant before it can withdraw from the Agreement and transfer the Piti units to GPA.

NAVY SEAL FACILITY, GUAM

The committee is encouraged by the cooperation of the Navy with the Government of Guam concerning the siting and construction timetable for Navy SEAL projects in Guam. The committee notes that the location of this facility in the inner harbor at Apra Harbor may restrict Guam's ability to develop its commercial port. The committee urges the Navy to continue to work cooperatively with the Government of Guam to examine alternative sites for the SEAL facility which consider Guam's economic needs.

ORDNANCE STORAGE NEEDS OF MARINE CORPS AIR STATION YUMA, ARIZONA

The committee remains concerned about ordnance storage at Marine Corps Air Station (MCAS) Yuma, Arizona and the effects on training and safety of current inadequate ordnance storage at the installation. The committee has reviewed the report of the Secretary of the Navy submitted on February 1, 1995 on this matter. The committee is pleased to note three of the seven military construction projects identified as requirements to remediate safety problems are programmed within the Future Year Defense Plan. The committee, however, is concerned that the remaining four military construction projects are unplanned. The committee urges the

Secretary of the Navy to reassess the requirements to address safety and training problems at MCAS Yuma and also urges the Navy to accelerate military construction projects to remediate such problems.

TITLE XXIII—AIR FORCE

SUMMARY

The Air Force requested authorization of $497,104,000 for military construction and $1,098,216,000 for family housing for fiscal year 1996. The committee recommends authorization of $586,841,000 for military construction and $1,140,716,000 for family housing for fiscal year 1996.

LEGISLATIVE PROVISIONS

SECTION 2301—AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

This section contains the list of authorized Air Force construction projects for fiscal year 1996. The authorized amounts are listed on an installation-by-installation basis. The state list contained in this report is intended to be the binding list of the specific projects authorized at each location.

SECTION 2302—FAMILY HOUSING

This section would authorize new construction and planning and design of family housing units for the Air Force for fiscal year 1996.

SECTION 2303—IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

This section would authorize improvements to existing units of family housing for fiscal year 1996.

SECTION 2304—AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

This section would authorize specific appropriations for each line item in the Air Force's budget for fiscal year 1996. This section also would provide an overall limit on the amount the Air Force may spend on military construction projects.

SECTION 2305—RETENTION OF ACCRUED INTEREST ON FUNDS DEPOSITED FOR CONSTRUCTION OF FAMILY HOUSING, SCOTT AIR FORCE BASE, ILLINOIS

This section would amend section 2310 of the Military Construction Authorization Act for fiscal year 1994 (division B of Public Law 103–760) to permit the retention of accrued interest on funds previously transferred to the County of St. Clair, Illinois, for the purpose of constructing military family housing at Scott Air Force Base. Upon the completion of construction all funds remaining, and any interest accrued thereon, shall be deposited in the general fund of the Treasury.

ITEMS OF SPECIAL INTEREST

IMPROVEMENTS OF MILITARY FAMILY HOUSING

The committee recommends that, within authorized amounts for improvement of military family housing and facilities, the Secretary of the Air Force execute the following project: $5,900,000 for family housing improvements at Wright-Patterson Air Force Base, Ohio.

TYNDALL AIR FORCE BASE, FLORIDA

The committee is aware of deficiencies in the aircraft support equipment shop at Tyndall Air Force Base, Florida. The committee is concerned such deficiencies may jeopardize readiness and flight operations. The committee encourages the Air Force to examine the facility. If the Air Force determines that the facility can no longer support the required maintenance operation in an efficient and safe manner, the committee urges the Air Force to initiate design work on a replacement facility.

TITLE XXIV—DEFENSE AGENCIES

SUMMARY

The Defense agencies requested authorization of $857,405,000 for military construction and $56,239,000 for family housing for fiscal year 1996. The committee recommends authorization of $728,332,000 for military construction and $66,239,000 for family housing.

LEGISLATIVE PROVISIONS

SECTION 2401—AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

This section contains the list of authorized Defense Agencies construction projects for fiscal year 1996. The authorized amounts are listed on an installation-by-installation basis. The state list contained in this report is intended to be the binding list of the specific projects authorized at each location.

SECTION 2402—FAMILY HOUSING PRIVATE INVESTMENT

This section would authorize the Secretary of Defense to enter into agreements to construct, acquire, and improve family housing, for the purpose of encouraging private investment, in the amount of $22,000,000.

SECTION 2403—IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

This section would authorize the Secretary of Defense to make improvements to existing units of family housing for fiscal year 1996 in an amount not to exceed $3,772,000.

SECTION 2404—ENERGY CONSERVATION PROJECTS

This section would authorize the Secretary of Defense to carry out energy conservation projects.

SECTION 2405—AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

This section would authorize specific appropriations for each line item in the Defense Agencies' budget for fiscal year 1996. This section also would provide an overall limit on the amount the Defense Agencies may spend on military construction projects.

SECTION 2406—MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1995 PROJECTS

This section would amend the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337) to provide for full authorization of projects to support chemical weapons and munitions destruction at Pine Bluff Arsenal, Arkansas, and Umatilla Army Depot, Oregon.

SECTION 2407—LIMITATION ON EXPENDITURES FOR CONSTRUCTION PROJECT AT UMATILLA ARMY DEPOT, OREGON

This section would prohibit the expenditure of funds for the construction of a chemical weapons and munitions incinerator facility at Umatilla Army Depot, Oregon until after March 1, 1996.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SUMMARY

The Department of Defense requested authorization of $179,000,000 for the NATO infrastructure fund for fiscal year 1996. The committee recommends $161,000,000.

LEGISLATIVE PROVISIONS

SECTION 2501—AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

This section would authorize the Secretary of Defense to make contributions to the North Atlantic Treaty Organization infrastructure program in an amount equal to the sum of the amount specifically authorized in section 2502 of this bill and the amount of recoupment due to the United States for construction previously financed by the United States.

SECTION 2502—AUTHORIZATION OF APPROPRIATIONS, NATO

This section would authorize appropriations of $161,000,000 as the U.S. contribution to the NATO infrastructure program.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SUMMARY

The Department of Defense requested a military construction authorization of $182,012,000 for fiscal year 1996 for guard and reserve facilities. The committee recommends authorization for fiscal year 1996 of $284,924,000 to be distributed as follows:

Army National Guard	$72,537,000

Army Reserve	42,963,000
Naval and Marine Corps Reserve	19,655,000
Air National Guard	118,267,000
Air Force Reserve	31,502,000
Total	284,924,000

LEGISLATIVE PROVISIONS

SECTION 2601—AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

This section would authorize appropriations for military construction for the guard and reserve by service component for fiscal year 1996. The state list contained in this report is intended to be the binding list of the specific projects authorized at each location.

SECTION 2602—CORRECTION IN AUTHORIZED USES OF FUNDS FOR ARMY NATIONAL GUARD PROJECTS IN MISSISSIPPI

This section would clarify that amounts authorized to be appropriated in section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–360) for the addition or alteration of Army National Guard armories at various locations in the State of Mississippi shall be available for the addition, alteration, or new construction of armory facilities and an operations and maintenance shop facility, including the acquisition of land for such facilities at such locations.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SECTION 2701—EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

This section would provide that authorizations for military construction projects, repair of real property, land acquisition, family housing projects and facilities, contributions to the North Atlantic Treaty Organization infrastructure program, and guard and reserve projects will expire on October 1, 1998 or the date of enactment of an Act authorizing funds for military construction for fiscal year 1999, whichever is later. This expiration would not apply to authorizations for which appropriated funds have been obligated before October 1, 1998 or the date of enactment of an Act authorizing funds for these projects, whichever is later.

SECTION 2702—EXTENSIONS OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1993 PROJECTS

This section would provide for selected extension of certain fiscal year 1993 military construction authorizations until October 1, 1996, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1997, whichever is later.

SECTION 2703—EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1992 PROJECTS

This section would provide for selected extension of certain fiscal year 1992 military construction authorizations until October 1,

1996, or the date of the enactment of the Act authorizing funds for military construction for fiscal year 1997, whichever is later.

SECTION 2704—EFFECTIVE DATE

This section would provide that Titles XXI, XXII, XXIII, XXIV, and XXVI of this bill shall take effect on October 1, 1995, or the date of the enactment of this Act, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

SUBTITLE A—MILITARY CONSTRUCTION PROGRAM AND MILITARY FAMILY HOUSING CHANGES

SECTION 2801—ALTERNATIVE MEANS OF ACQUIRING AND IMPROVING FAMILY HOUSING AND SUPPORTING FACILITIES FOR THE ARMED FORCES

This section would authorize a series of authorities as alternative methods of acquiring and improving family housing and supporting facilities for the armed forces. Such authorities would include the ability to contract and lease family housing. The authorities would be targeted at installations where there is a shortage of suitable family housing. For housing acquired under the authorities provided in this section, the unit size and type limitations in current law would be waived to encourage private sector development of military family housing units. The Department of Defense would be authorized to contribute up to 35 percent of the investment cost in any project. Such investment could take a number of forms, including cash, current housing, and/or real property. This section would also establish the Defense Family Housing Improvement Fund which would be the sole source of funding for projects undertaken under the authorities provided in this section. This section would also provide a 21-day notice-and-wait requirement for any contract entered into by the Department under the authorities in this section, and a 30-day notice-and-wait requirement on requests to transfer funds from the family housing construction accounts into the fund. Each of the authorities contained in this section would expire on September 30, 2000.

SECTION 2802—INCLUSION OF OTHER ARMED FORCES IN NAVY PROGRAM OF LIMITED PARTNERSHIPS WITH PRIVATE DEVELOPERS FOR MILITARY HOUSING

This section would expand the limited partnership authority authorized for the Department of the Navy in the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337) to each of the military departments. The expanded limited partnership authority would expire on September 30, 2000.

SECTION 2803—SPECIAL UNSPECIFIED MINOR CONSTRUCTION THRESHOLDS FOR PROJECTS TO CORRECT LIFE, HEALTH, AND SAFETY DEFICIENCIES AND CLARIFICATION OF UNSPECIFIED MINOR CONSTRUCTION AUTHORITY

This section would increase the thresholds for unspecified minor construction projects from $1,500,000 to $3,000,000 and the thresholds for projects funded with operations and maintenance funds

from $300,000 to $1,000,000 solely for construction and maintenance projects to remediate serious life, health, and safety deficiencies. The provision would not increase the budgetary requirements of the Department of Defense.

The section would also make a technical and clarifying change in the definition of a minor construction project in the applicable provisions of chapter 169, title 10, United States Code.

SECTION 2804—DISPOSITION OF AMOUNTS RECOVERED AS A RESULT OF DAMAGE TO REAL PROPERTY

This section would authorize the military departments to retain the proceeds recovered as a result of damages to real property rather than depositing those proceeds into the miscellaneous receipts account in the Treasury. Such proceeds would be made available for repair or replacement of damages to real property.

SECTION 2805—RENTAL OF FAMILY HOUSING IN FOREIGN COUNTRIES

This section would authorize an increase in the number of high-cost family housing units which may be leased in foreign countries.

SECTION 2806—PILOT PROGRAM TO PROVIDE INTEREST RATE BUY DOWN AUTHORITY ON LOANS FOR HOUSING WITHIN HOUSING SHORTAGE AREAS AT MILITARY INSTALLATIONS

This section would authorize a three-year pilot project to provide additional housing assistance to military personnel. Under the program, which would be administered by the Secretary of Veterans Affairs (VA), the VA would buy down the interest rate on VA home loans for qualified applicants. The Secretary of Defense would reimburse the VA for the costs of the interest rate buy down. Authorization of the program would be limited to $10 million and could only be utilized at military installations which the Secretary of Defense considers to have a military family housing deficit.

ITEMS OF SPECIAL INTEREST

IMPEDIMENTS TO REFORM OF MILITARY FAMILY HOUSING

The committee directs the Secretary of Defense to review current statutes and regulations affecting the acquisition and improvement of military family housing. The Secretary shall submit a report on the Department's findings, including any recommendations for changes to applicable statutes and regulations, to the congressional defense committees, no later than February 1, 1996.

MEASUREMENT OF HOUSING DEFICIENCIES

The committee notes that each of the military departments has developed different methodologies for measuring deficiencies in the availability of housing for military families and enlisted personnel in local housing markets surrounding military installations. The committee is concerned that the authorities authorized in this bill for alternative means of acquiring and improving family housing and supporting facilities for the armed forces be utilized in a consistent manner. The committee directs the Secretary of Defense to conduct a study of current deficiency measurement standards

among the military departments and develop a common department-wide standard for such measurements. The Secretary shall submit a report on the Department's progress to the congressional defense committees no later than February 1, 1996.

SUBTITLE B—DEFENSE BASE CLOSURE AND REALIGNMENT

SECTION 2811—AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED TO PERSONS WHO CONSTRUCT OR PROVIDE MILITARY FAMILY HOUSING

This section would authorize the Secretary of Defense to enter into an agreement to transfer property or facilities at an installation closed, or to be closed, under current law to a person who agrees to provide, in exchange for the property or facilities, housing units located at another military installation where there is a shortage of suitable housing. Under the provision, the Secretary would not be permitted to select property or facilities for transfer that have been identified in the redevelopment plan for the installation as essential for base reuse and development.

SECTION 2812—DEPOSIT OF PROCEEDS FROM LEASES OF PROPERTY LOCATED AT MILITARY INSTALLATIONS BEING CLOSED OR REALIGNED

This section would authorize the deposit of proceeds from leases of property located at installations being closed or realigned into the relevant account established to administer matters related to base closure and realignment.

SECTION 2813—AGREEMENTS FOR CERTAIN SERVICES AT INSTALLATIONS BEING CLOSED

This section would clarify current law to authorize the Secretary of Defense to enter into agreements with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services provided by such governments at military installations scheduled to be closed.

ITEMS OF SPECIAL INTEREST

MANAGEMENT OF EXCESS MILITARY LANDS FOR CERTAIN RECREATIONAL PURPOSES

The committee recognizes the demand for access to public lands, including lands managed by the Department of Defense, for outdoor recreational and sporting pursuits. The committee is aware of proposals to make land on military bases that are closed or are scheduled to be closed available to the States and open to the public for such activities. The Secretary is directed to conduct a study of the feasibility of conveying land excess to the military departments as a result of a base closure and which has no local development purpose to the States for designation as wildlife management areas to be managed for outdoor recreational and sporting pursuits. The Secretary shall submit a report on the Department's findings, including any recommendations, to the Congress no later than May 1, 1996.

SUBTITLE C—LAND CONVEYANCES GENERALLY

SECTION 2821—TRANSFER OF JURISDICTION, FORT SAM HOUSTON, TEXAS

This section would authorize the Secretary of the Army to transfer, without reimbursement, approximately 53 acres with improvements to the Secretary of Veterans Affairs. The property is to be conveyed for use as a national cemetery. The cost of any surveys necessary for the transfer of jurisdiction shall be borne by the Secretary of Veterans Affairs.

SECTION 2822—LAND ACQUISITION OR EXCHANGE, SHAW AIR FORCE BASE, SUMTER, SOUTH CAROLINA

This section would authorize the Secretary of the Air Force to acquire, by means of an exchange of property, acceptance as a gift, or other means that do not require the use of appropriated funds, all rights, title, and interest in a parcel of real property, with improvements, consisting of approximately 1,100 acres adjacent to Shaw Air Force Base, Sumter, South Carolina.

SECTION 2823—TRANSFER OF CERTAIN REAL PROPERTY AT NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK, FOR USE AS NATIONAL CEMETERY

This section would authorize the Secretary of the Navy to transfer, without reimbursement, approximately 150 acres to the Secretary of Veterans Affairs. The property is to be conveyed for use as a national cemetery. The cost of any surveys necessary for the transfer of jurisdiction shall be borne by the Secretary of Veterans Affairs.

SECTION 2824—LAND CONVEYANCE, FORT ORD, CALIFORNIA

This section would authorize the Secretary of the Army to convey a parcel of real property with improvements consisting of approximately 477 acres to the City of Seaside, California. The real property to be conveyed consists of the two Fort Ord golf courses and the Hayes housing facilities. As consideration for the conveyance of real property and improvements, the City shall pay an amount equal to the fair market value of the property to be conveyed. From the amount paid by the City as consideration for the conveyance, the Secretary shall deposit in the Morale, Welfare, and Recreation Fund account of the Department of the Army an amount equal to the fair market value of the golf courses conveyed under this section. The balance of the amount paid by the City shall be deposited in the Department of Defense Base Closure Account 1990.

SECTION 2825—LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA

This section would authorize the Secretary of the Army to convey, without consideration, a parcel of real property, with improvements, consisting of approximately 1,125 acres to the State of Indiana. The property to be conveyed is to be used for recreational purposes. The cost of any surveys necessary for the conveyance of real property shall be borne by the State of Indiana.

SECTION 2826—LAND CONVEYANCE, NAVAL AIR STATION, PENSACOLA, FLORIDA

This section would authorize the Secretary of the Navy to convey a parcel of unimproved real property consisting of approximately 135 acres to West Florida Developers, Inc. As consideration for the conveyance of real property, West Florida Developers, Inc. shall agree to restrict the use of all lands located within the Air Installation Compatible Zone of Naval Air Station Pensacola owned by West Florida Developers, Inc. The cost of any surveys necessary for the conveyance shall be borne by West Florida Developers, Inc.

SECTION 2827—LAND CONVEYANCE, AVON PARK AIR FORCE RANGE, SEBRING, FLORIDA

This section would authorize the Secretary of the Air Force to convey, without consideration, a parcel of real property, with improvements, within the boundaries of the Avon Park Air Force Range near Sebring, Florida. The property is to be conveyed for the operation of a juvenile or other correctional facility. The exact acreage of the real property to be conveyed shall be determined by a survey satisfactory to the Secretary, and the cost for such survey shall be born by Highland County, Florida.

SECTION 2828—LAND CONVEYANCE, PARKS RESERVE FORCES TRAINING AREA, DUBLIN, CALIFORNIA

This section would authorize the Secretary of the Army to convey a parcel of real property, with improvements, consisting of approximately 31 acres to the County of Alameda, California. As consideration for the conveyance, the County would provide the Army with improvements and services at least equal to the appraised value of the real property conveyed. The improvements and services to be provided by the County would permit the relocation of the main gate of the Parks Reserve Forces Training Area, Dublin, California, and for the repair and replacement of deficient training area infrastructures. The exact acreage of the real property to be conveyed shall be determined by a survey satisfactory to the Secretary, and the cost for such survey shall be borne by the County.

SECTION 2829 LAND CONVEYANCE, HOLSTON ARMY AMMUNITION PLANT, MOUNT CARMEL, TENNESSEE

This section would authorize the Secretary of the Army to convey, without reimbursement, a parcel of real property consisting of approximately 6.5 acres to the City of Mount Carmel, Tennessee. The property is to be conveyed for expansion of the existing Mount Carmel Cemetery. The cost of any surveys necessary for the conveyance of real property shall be borne by the City.

SECTION 2830—LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, MCGREGOR TEXAS

This section would authorize the Secretary of the Navy to convey, without consideration, to the City of McGregor, Texas, all rights, title, interest, and improvements thereon to a parcel of real property containing the Naval Weapons Industrial Reserve Plant. The Secretary would be authorized to convey other fixtures located on

the property if such equipment can be reinstituted after the conveyance. Until the real property is conveyed by deed, the Secretary would be permitted to lease the facility to the City in exchange for security, fire protection, and maintenance. The conveyed property would be used for purposes of economic redevelopment. The exact acreage and legal description of the property are to be determined by a survey acceptable to the Secretary with the cost to be borne by the City. Finally, the Secretary would be authorized to set additional terms and conditions which protect the interests of the United States.

SECTION 2831—TRANSFER OF JURISDICTION AND LAND CONVEYANCE, FORT DEVENS MILITARY RESERVATION, MASSACHUSETTS

This section would require the Secretary of the Army to convey, without reimbursement, a portion of the Fort Devens Military Reservation, Massachusetts, to the Secretary of the Interior at any time after the date on which the property is determined to be excess to the needs of the Department of Defense. The property is to be conveyed for inclusion in the Oxbow National Wildlife Refuge. The cost of any surveys necessary for the conveyance shall be borne by the Secretary of the Interior.

This section would also require the Secretary of the Army to convey, without reimbursement, a parcel of real property consisting of approximately 100 acres of the parcel available for transfer to the Secretary of the Interior to the Town of Lancaster, Massachusetts. The cost of any surveys necessary for the conveyance shall be borne by the Town.

SECTION 2832—LAND CONVEYANCE, ELMENDORF AIR FORCE BASE, ALASKA

This section would authorize the Secretary of the Air Force to sell to a private person a parcel of real property consisting of approximately 32 acres located at Elmendorf Air Force Base, Alaska. As consideration for the sale, the purchaser shall be subject to the condition to provide appropriate maintenance for the apartment complex located on the property to be conveyed and used by members of the armed forces and their dependents stationed at the Elmendorf Air Force Base. The cost of any surveys necessary for the sale of real property shall be borne by the purchaser.

SECTION 2833—LAND CONVEYANCE ALTERNATIVE TO EXISTING LEASE AUTHORITY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA

This section would amend section 2834(b) of the Military Construction Authorization Act for Fiscal Year 1993, (division B of Public Law 103–160), as amended, and section 2821 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337) to authorize the Secretary of the Navy without consideration to convey, in lieu of an existing lease, the property described to the City of Oakland, California, the Port of Oakland, California, or the City of Alameda, California, under such terms as the Secretary considers appropriate. The exact acreage of the real property which may be conveyed shall be determined by

a survey satisfactory to the Secretary, and the cost for such survey shall be borne by the recipient of the property.

SUBTITLE D—LAND CONVEYANCES INVOLVING UTILITIES

SECTION 2841—CONVEYANCE OF RESOURCE RECOVERY FACILITY, FORT DIX, NEW JERSEY

This section would authorize the Secretary of the Army to convey to Burlington County, New Jersey all rights, title, and interest of the United States in real property consisting of approximately two acres and containing a resource recovery facility. In consideration of the conveyance, Burlington County would accept the resource recovery facility in its existing condition and provide refuse and steam service to Fort Dix, New Jersey at a rate established by the appropriate State or Federal regulatory authority.

SECTION 2842—CONVEYANCE OF WATER AND WASTEWATER TREATMENT PLANTS, FORT GORDON, GEORGIA

This section would authorize the Secretary of the Army to convey to the City of Augusta, Georgia all rights, title, and interest of the United States in several parcels of real property consisting of approximately seven acres each and containing water and wastewater treatment plants and distribution and collection systems. In consideration of the conveyance, the City of Augusta would accept the water and wastewater treatment plants and distribution and collection systems in their existing condition and provide water and sewer service to Fort Gordon, Georgia at a rate established by the appropriate State or Federal regulatory authority.

SECTION 2843—CONVEYANCE OF ELECTRICAL DISTRIBUTION SYSTEM, FORT IRWIN, CALIFORNIA

This section would authorize the Secretary of the Army to convey to the Southern California Edison Company, California all rights, title, and interest of the United States in the electrical distribution system located at Fort Irwin, California. In consideration of the conveyance, the Southern California Edison Company would accept the electrical distribution system in its existing condition and provide electrical service to Fort Irwin, California at a rate established by the appropriate State or Federal regulatory authority.

SUBTITLE E—OTHER MATTERS

SECTION 2851—EXPANSION OF AUTHORITY TO SELL ELECTRICITY

This section would amend section 2483(a) of title 10, United States Code, to expand the authority of the Department of Defense to permit the military departments to take advantage of changing electric power marketing conditions by increasing the available option to outsource for energy on military installations.

SECTION 2852—AUTHORITY FOR MISSISSIPPI STATE PORT AUTHORITY TO USE NAVY PROPERTY AT NAVAL CONSTRUCTION BATTALION CENTER, GULFPORT, MISSISSIPPI

This section would authorize the Secretary of the Navy to enter into an agreement with the Port Authority of the State of Mississippi to permit joint use of real property and associated improvements comprising up to 50 acres located at the Naval Construction Battalion Center, Gulfport, Mississippi. The requirement would be for a period not to exceed 15 years, and the Port Authority would be required to pay fair market rental value as determined by the Secretary. The Secretary could not enter into any agreement until after the end of a 21-day period beginning on the date on which the Secretary submits a report to Congress explaining the terms of the proposed agreement and describing the consideration that the Secretary would expect to receive under the agreement.

SECTION 2853—PROHIBITION ON JOINT CIVIL AVIATION USE OF NAVAL AIR STATION MIRAMAR, CALIFORNIA

This section would prohibit the Secretary of the Navy from entering into any agreement that would provide for the regular use of Naval Air Station Miramar, California by civil aircraft.

SECTION 2854—REPORT REGARDING ARMY WATER CRAFT SUPPORT FACILITIES AND ACTIVITIES

This section would require a report by the Secretary of the Army regarding Army water craft support facilities and activities.

ITEMS OF SPECIAL INTEREST

WARGAMING INFRASTRUCTURE AND FACILITIES

The committee recognizes the importance of wargaming, simulation, and other analytical techniques to develop and evaluate advanced warfighting and campaign concepts and doctrine for future employment by the armed forces. The committee is aware of significant deficiencies in the infrastructure and facilities at several installations designed to support that purpose, including, but not limited to, the National Test Facility, Colorado; the Naval War College, Rhode Island; and the Armed Forces Staff College, Virginia. The committee directs the Secretary of Defense to conduct a comprehensive study of the wargaming capability and infrastructure of the military departments and the Department of Defense. The Secretary shall submit a report on the Department's findings, including any recommendations for improvements to such facilities, to the congressional defense committees, no later than March 1, 1996.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PURPOSE

Title XXXI would authorize appropriations for the national security programs of the Department of Energy for fiscal year 1996, including management and operation of programs for research, development, and production in support of the armed forces, the production of strategic and critical materials for the armed forces, the protection of critical materials, materials and information necessary for national defense, management of defense radioactive wastes; environmental management, naval nuclear propulsion, and other military applications of nuclear energy.

OVERALL CONCERNS

The United States nuclear arsenal remains a critical component of U.S. defense policy. Although the number of U.S. nuclear weapons has already declined significantly, and will decline further as a result of arms control agreements, there is every reason to believe that nuclear weapons will remain a cornerstone of U.S. security for decades to come. As stated in the February, 1995 National Military Strategy document, "The highest priority of our military strategy is to deter a nuclear attack against our Nation and allies. Our survival and the freedom of action that we need to protect extended national interests depend upon strategic and on strategic nuclear forces and their associated command, control, and communications."

Despite such pronouncements, the infrastructure necessary to design, produce, and maintain U.S. nuclear weapons has suffered significant erosion resulting from the Department's neglect over the past several years. If steps are not taken soon to reverse this decline in the U.S. nuclear infrastructure, U.S. political and military leaders will soon lose confidence in the safety, reliability, and effectiveness of U.S. nuclear weapons. Once that happens, America's ability to deter aggression—indeed, its credibility as a superpower—will be significantly diminished.

The committee's actions recommended in this bill are intended to serve as a first step in correcting the Administration's unacceptable neglect of the U.S. nuclear infrastructure.

SUBTITLE A—NATIONAL SECURITY PROGRAM AUTHORIZATIONS

SUMMARY OF COMMITTEE CHANGES

The fiscal year 1996 budget request for DOE national security programs totaled $11,178,746,000. Of the total amount requested, $3,540,175,000 was for weapons activities, $6,008,002,000 was for defense environmental restoration and waste management, $1,432,159,000 was for materials support and other defense programs, and $198,400,000 was for defense nuclear waste disposal.

The committee recommends a total of $10,818,555,000 including $3,610,914,000 for weapons activities, $5,265,478,000 for defense environmental restoration and waste management, $1,001,239 for other defense activities, and $198,400,000 for defense nuclear waste disposal.

The following table summarizes the request and the committee recommendation.

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SECTION 3101—WEAPONS ACTIVITIES

This section would authorize Department of Energy weapons activity funding for fiscal year 1996.

SECTION 3102—DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

The budget request contained $6.0 billion for activities of the Department of Energy's Office of Environmental Restoration and Waste Management. The committee recommends reducing the requested amount by $742.5 million for a total authorized amount of $5,265,478,000.

This reduction would be accomplished by reducing operations and maintenance accounts and by reducing the funds accumulated in prior year "uncosted balance" accounts. Uncosted balance accounts, in which repose funds that have been appropriated and obligated but not actually expended, have grown to unacceptably high levels, making prudent financial management and program execution difficult. The committee notes that the Department has, in its budget submission, recommended the use of over $275 million in prior years balances to offset the new funding requirement. The committee believes that these accounts may be further reduced without jeopardizing the health or safety of workers or localities.

The committee directs that the Department of Energy absorb the funding reductions that would be authorized by this Act by eliminating headquarters contract support staff, headquarters support contracts and subcontracts, and headquarters support functions. The committee notes that within the Department there is significant duplication of function between contractor support personnel and government employees. Moreover, a disproportionate amount of the funding for the Department of Energy's environmental management program is allocated to administrative oversight activities, as opposed to actual cleanup or operations at sites in the field.

The committee further directs that the Department submit a report to the congressional defense committees, contemporaneous with its fiscal year 1997 budget request, containing the following: (1) a projection by program and appropriation of carryover balances (uncosted and unobligated balances) to be available at the end of the current fiscal year. For example, for its fiscal year 1997 submission, the report should project balances for the end of fiscal year 1996; (2) target carryover balances by program for the end of the current fiscal year. The target balances should be derived from a model that is designed to determine the minimum amount of carryover balances needed for program operations and continuity; (3) a comparison of the results of the above findings which shows for each program the difference between the projected and target carryover balances; (4) a justification, if one exists, for the difference between the projected and target carryover balances; and (5) the amount of carryover balances that the Department cannot justify based on the calculation in paragraph (4). The committee believes that these carryover balances should be applied to reduce the Department's authorization request for the next fiscal year.

SECTION 3103—PAYMENT OF CIVIL PENALTIES

This section would authorize the Secretary of Energy to pay for civil penalties assessed in accordance with a federal facility agreement and consent order against the Rocky Flats site in Colorado.

SECTION 3104—OTHER DEFENSE ACTIVITIES

This section would authorize funds for other defense activities of the Department of Energy for fiscal year 1996.

SECTION—3105 DEFENSE NUCLEAR WASTE DISPOSAL

This section would authorize funds for defense nuclear waste disposal activities of the Department of Energy for fiscal year 1996.

SUBTITLE B—LEGISLATIVE PROVISIONS

SECTION 3121—REPROGRAMMING

This section would prohibit the reprogramming of funds in excess of 102 percent of the amount authorized for the program, or in excess of $1 million above the amount authorized for the program until the Secretary of Energy has notified the congressional defense committees and a period of 30 days has elapsed after the date on which the report is received. Should the Department demonstrate that it has improved its procedures for handling reprogramming requests, the committee would consider returning to a more flexible reprogramming statute in the future.

SECTION 3122—LIMITS ON GENERAL PLANT PROJECTS

This section would limit the initiation of "general plant projects" authorized by the bill if the current estimated cost for any project exceeds $1.2 million. However, if the Secretary of Energy finds that the estimated cost of any project will exceed $1.2 million, the appropriate committees of Congress must be notified of the reasons for the cost variation.

SECTION 3123—LIMITS ON CONSTRUCTION PROJECTS

This section would permit any construction project to be initiated and continued only if the estimated cost for the project does not exceed 125 percent of the higher of: (1) the amount authorized for the project, or (2) the most recent total estimated cost presented to the Congress as justification for such project. To exceed such limits, the Secretary of Energy must report in detail to the appropriate committees of Congress and the report must be before the committees for 30 legislative days.

This section would also specify that the 125 percent limitation would not apply to projects estimated to cost under $5 million.

SECTION 3124—FUND TRANSFER AUTHORITY

This section would permit funds authorized to be appropriated by the bill to be transferred to other agencies of the government for performance of work for which the funds were authorized and appropriated. The provision would permit the merger of such funds

with the authorizations of the agency to which they are transferred.

This section would also limit to no more than five percent the amount of funds that may be transferred between authorizations in the Department of Energy that were authorized pursuant to this act.

SECTION 3125—AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN

The committee recommends a new provision (sec. 3125) that would limit the Secretary of Energy's authority to request construction funding until the Secretary has certified a conceptual design. This section would provide an exception in the case of emergencies.

SECTION 3126—AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES

This section would permit, in addition to any advance planning and construction design otherwise authorized by the bill, the Secretary of Energy to perform planning and design utilizing available funds for any Department of Energy national security program construction project whenever the Secretary determines that the design must proceed expeditiously to protect the public health and safety, to meet the needs of national defense or to protect property.

SECTION 3127—FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

This section would authorize, subject to the provisions of appropriation Acts and section 3121 of this bill, amounts appropriated pursuant to this bill for management and support activities and for general plant projects to be made available for use, when necessary, in connection with all national security programs of the Department of Energy.

SECTION 3128—AVAILABILITY OF FUNDS

This section would authorize, subject to a provision of an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment to remain available until expended.

SUBTITLE C—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

SECTION 3131—AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS

This section would authorize the Secretary of Energy to conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia, and would require a notification to Congress prior to the obligation of funds under this authority.

SECTION 3132—NATIONAL IGNITION FACILITY

This section would prohibit obligation of funds for the National Ignition Facility (NIF) until the Secretary of Energy concludes that

construction of the NIF will not impede U.S. nuclear nonproliferation objectives and notifies Congress of that conclusion.

SECTION 3133—TRITIUM PRODUCTION

The committee is deeply concerned about the lack of progress by the Department in establishing a long-term source of tritium, which is necessary to maintain the Nation's nuclear deterrent. Therefore, the committee recommends a total of $100 million for tritium production, an increase of $50 million over the request.

Although the Department has announced its intention to reach a Record of Decision in November 1995, the committee is concerned with the direction the Department appears to be heading. The Department seems determined to avoid full consideration of the reactor option and is proceeding with research and development on an accelerator for future tritium production even though the use of such technology for this mission will likely cost the federal government many billions of dollars more than the reactor option. Moreover, the unproven and theoretical nature of the accelerator for this production application could also jeopardize the Department's ability to satisfy tritium requirements on schedule.

On March 1, 1995, the Department issued a draft Programmatic Environmental Impact Statement (PEIS) on tritium supply. It did not identify any unacceptable environmental consequences for either the reactor or the accelerator options. However, the Department has failed to release information on the costs, schedule, and uncertainties for implementing either of the approaches under consideration. It is the committee's view that the Advanced Light Water Reactor (ALWR) will provide the most proven technology at the least cost to the government (due in part to revenues from electricity generation) and is, therefore, the most logical choice. In addition, the most logical site for the tritium production mission would be the Savannah River Site (SRS) due to its existing tritium infrastructure. Therefore, the committee recommends a provision (sec. 3133) that would require that fiscal year 1996 funds for tritium production be used to proceed with multipurpose ALWR technology, including resumption of the light water reactor tritium-producing target program, as well as to continue on-going research and development work on accelerator technology.

The committee is interested in the proposal for a privately financed multipurpose reactor that could (1) produce tritium, (2) consume excess weapons plutonium, and (3) generate electricity as a means to reduce government costs. To date however, the Department has seemingly ignored this option. A Program Plan was submitted to the Department by private industry in March, 1994, to effect this option. In addition to saving the government billions of dollars in construction costs for a tritium production source, the private sector approach would also obviate the need for the Department to establish a separate, costly program to dispose of excess weapons plutonium. Accordingly, the committee directs the Department to begin implementation of the industry Program Plan and to make $14 million of fiscal year 1996 funds available to private industry for this purpose. If this program demonstrates that the privatized multipurpose reactor will indeed result in lower costs to the federal government for both plutonium disposition and tritium

production, the committee expects the Department to proceed and to notify the committee of any enabling legislation that is required. If and when a reactor is constructed under this plan, the Department will ensure that any government funds provided for implementation of the industry's program plan be repaid out of future revenues from the facility's operation.

Because accelerator technology may serve other important national security purposes, the Department should prepare a new program to demonstrate other potential applications of the technology. Because the Department already has accelerator research and development efforts under way, those efforts should continue while the new program plan is being prepared, but should focus upon activities that are expected to be beneficial to other nuclear defense applications. The committee recommends $40 million of the tritium production funds for the accelerator for this purpose. The committee requests that the Secretary of Energy prepare and submit a report to Congress describing the viable alternative nuclear defense missions for the accelerator and the funding and program plan needed to develop it. The report is due not later than 180 days after the date of enactment of this Act.

The committee is also deeply concerned with the Department's inability to reach a decision on a plan for the disposition of excess weapons plutonium. It has taken the Department over a year and tens of millions of dollars to simply conclude that the January, 1994, recommendations of the National Academy of Sciences were correct. Meanwhile, the Department has increased its request for funding in fiscal year 1996 above the fiscal year 1995 funding level and delayed issuance of a Record of Decision by several months to August 1996. The committee believes that a multi-purpose reactor, under the Tritium Production Program, should be considered the preferred means of plutonium disposition, unless and until the Department is able to demonstrate a more visible alternative.

On this basis, the committee directs the Department to provide sufficient funds for a complete analysis of the multipurpose ALWR in the performance of its PEIS on plutonium disposition. Furthermore, the committee recommends $5 million for the Pantex facility for evaluating engineering processes which are candidates for converting excess plutonium in its various forms into other fuel appropriate for use in the multipurpose reactor.

SUBTITLE D—OTHER MATTERS

SECTION 3141—REPORT ON FOREIGN TRITIUM PURCHASES

The committee is concerned that the Department of Energy has failed to consider the potential benefits associated with the foreign purchase of tritium as a means of ensuring an adequate supply of tritium for the U.S. nuclear weapons stockpile. Therefore, the committee recommends a provision (sec. 3141) that would require the President to prepare and submit a report on foreign tritium purchases.

SECTION 3142—STUDY ON NUCLEAR TEST READINESS POSTURES

The Department of Energy has proposed to shift from a six-months test readiness posture to a three-year test readiness pos-

ture. The committee is concerned about the implications of such a change in policy. Therefore, the committee recommends a provision (sec. 3142) that would require the Secretary of Energy to prepare and submit a report on the implications of changes in U.S. policy with respect to nuclear test readiness.

SECTION 3143—MASTER PLAN ON WARHEADS IN THE ENDURING STOCKPILE

The Department of Energy has failed to translate its plans for stockpile stewardship and management into a detailed plan for assuring the safety, reliability, and effectiveness of the warheads to remain in the enduring stockpile. Therefore, the committee recommends a provision (sec. 3143) that would require the President to prepare and submit a master plan that describes in detail how the government plans to demonstrate, by 2002, the capability to refabricate and certify warheads in the enduring stockpile, and the capability to design, fabricate, and certify new warheads.

SECTION 3144—PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED

The committee is concerned that the Department of Energy may be planning to permit inspections of U.S. nuclear weapons facilities by the International Atomic Energy Agency without adequately safeguarding sensitive nuclear weapons design information. Therefore, the committee recommends a provision (sec. 3144) that would prohibit such inspections unless protection of such sensitive data is certified by the Secretary.

ITEMS OF INTEREST

Enhanced surveillance

Under the current plans, the enduring U.S. nuclear stockpile will be smaller and less diverse, and thus more vulnerable to single-point and common-mode failures. New surveillance technologies, coupled with enhanced predictive capabilities as to the effects of materials aging on component and weapons performance are needed. The committee directs the Department to initiate an enhanced surveillance program to transition current surveillance activities from the reactive to the predictive mode. The committee recommends an additional $40 million to initiate this new program in fiscal year 1996. These funds should be used to support surveillance hydrotests, nondestructive tests, system level modeling, materials laboratory tests and nondestructive test evaluation, and development of new diagnostic technologies to predict component lifetimes.

Accelerated strategic computing initiative

Computational capabilities underpin every aspect of nuclear weapon design, engineering, and evaluation. In the absence of underground testing, significant advances in the laboratories' computational capabilities are necessary to support the stockpile stewardship program activities. The committee recognizes the importance of this activity, and therefore directs the Department to: (1)

initiate additional development projects for high-end hardware development; (2) pursue additional activities to enhance problem solving and software environments, including high performance classified and unclassified networks; (3) fully fund planned weapons applications development projects in three-dimensional and high fidelity codes; and (4) develop weapons-specific parallel computing tools. The committee recommends an increase of $40 million for this initiative for a total program funding level of $85 million in fiscal year 1996.

Dual revalidation

The enduring nuclear stockpile will be subject to environmental and aging problems, and will require increasing attention and scrutiny to ensure safety, reliability, and performance. A new process called dual revalidation has recently been formulated. The revalidation process will rely upon the formulation of two independent teams from the Department of Energy, in coordination with the Department of Defense, to establish a baseline assessment of each weapon type in the enduring nuclear stockpile. The teams will use the baseline assessments as a basis for measuring any future changes in the weapon system, and to perform future weapon system analyses in support of system revalidation. The committee recognizes the importance of establishing the revalidation process as quickly as possible, and therefore recommends a funding level of $20 million in fiscal year 1996 to initiate the program. These funds should be used to support the independent teams in reviewing the design calculations for the original design of the weapon, to exchange and analyze current surveillance and other data, and to bring new calculational methods and improved models to bear. In addition, funds may be used to support additional hydrodynamic and environmental tests with advance diagnostics, as needed, to establish a modern basis for the analysis.

Advanced manufacturing

In years past, a large nuclear weapons production complex provided the capability and capacity to rapidly produce new weapons and fix problems in the stockpile. While new weapons are not planned, the Department must maintain a production capability to support the weapons stockpile as it ages. A new approach is needed to ensure the safety and reliability of the enduring U.S. nuclear stockpile that eliminates the need for a large facilities and infrastructure. The Department has identified a new initiative to develop the tools needed to support future manufacturing needs. This initiative, called the Advanced Design and Production Technologies (ADAPT) will build upon core activities in materials and components research, and accelerate the development and deployment of cost effective, environmentally acceptable product realization technologies and processes in direct support of the nuclear weapons stockpile. The committee recommends an additional $80 million for this initiative to accelerate five development areas planned by the Department: (1) advanced processes for materials and components, (2) communications infrastructure to integrate labs, plants and industry, (3) accelerated design and engineering environments, (4) initiate development of advanced controls for prototype manufac-

turing and assembly facilities, and (5) solids models development for analysis of complex manufacturing processes, including assembly.

Stockpile management activities

The committee recognizes the importance of maintaining the existing nuclear stockpile at high standards of safety and reliability. Accordingly, the committee recommends an increase of $40 million in the stockpile management account for fiscal year 1996. The committee is aware of the urgent need to stabilize plutonium stocks at defense programs sites and understands that the Department has recently completed a study to implement a plan for plutonium stabilization at the Lawrence Livermore National Laboratory. The committee therefore recommends that $30 million of the increased funding be made available to expedite the implementation of the plan.

Dual-axis radiographic hydrodynamic test facility

The Dual-Axis Radiographic Test Facility (DARHT) at Los Alamos National Laboratory will provide substantial improvements in dynamic radiography and will be a major experimental tool for addressing weapon safety and reliability issues. The Department was forced by legal action to stop construction of DARHT in late January 1995 until completion of an environmental impact statement on the project. The draft environmental impact statement was released on May 12, 1995, for public comment and it is anticipated that the final document will be available in September of this year.

In anticipation of a record of decision in early fiscal year 1996 determining that the project should be completed, the committee recommends an addition of $10 million to the request for operating funds and an additional $5 million for construction funds to restart the project and address the increased cost of construction due to the delays experienced. In addition, the committee fully supports beginning long-lead procurement associated with the second axis of the facility due to the critical nature of this project. An additional $5 million is provided to begin this procurement in fiscal year 1996 not fiscal year 1997 as anticipated by the Department.

Technology transfer

The committee sees little benefit in pursuing technology transfer-related activities which have little or no relevance to the nuclear weapons mission. Therefore, the committee recommends authorization of not more than $25 million for technology transfer, a reduction of $220.4 million from the requested amount.

National resource center for plutonium

The committee recommends authorization of $10 million, the requested amount, for the Amarillo National Resource Center for Plutonium, Amarillo, Texas. The committee strongly supports the continued activities of the center and urges the Secretary to request adequate funding for its continued operations in the fiscal year 1997 budget submission.

Emergency management

In an effort to streamline the Department of Energy's emergency-related organizations and to eliminate redundancy, the committee recommends consolidating funding for emergency management which has previously been included in the weapons activities program direction account and funding for a separate emergency preparedness account. The fiscal year 1996 budget request for emergency management is $20.1 million and $8.2 million for emergency preparedness. The committee recommends a total of $23.3 million for fiscal year 1996 for the combined programs. This reduction in funding from the budget request will require a reduction in the number of staff performing redundant functions and should lead to efficiencies in centralizing emergency planning and oversight.

Merger of capital equipment and general plant project funding

The report of the Galvin Task Force reviewing Department of Energy laboratory operations highlighted instances where the current budget structure and congressional funding limitations may result in excessive administrative and procedural oversight. Micromanagement leads to increased costs and diminished productivity in the operation of the Department's laboratories and facilities. The committee recommends merging capital equipment and general plant projects funding with the operating funding to expedite the allocation of resources for operating, maintenance, and other infrastructure activities and to ensure the operation of the Department's laboratories and facilities in the most efficient and cost effective manner.

Construction activity that exceeds the general plant project threshold of $2 million would continue to require specific authorization and appropriation by the Congress. Any construction activity that does not exceed the $2 million threshold would be included in the operation and maintenance account.

The committee directs the Department, in implementing this change, to continue to reflect the capital equipment and general plant projects in the financial and accounting reports. The committee expects to be informed if there are major differences between the funding requested for capital equipment and general plant projects in the fiscal year 1996 budget request and the actual execution of the programs under these new guidelines. Also, specific details for planned capital equipment and general plant projects will continue to be reported in the annual budget justifications.

International center for applied research

The International Center for Applied Research (ICAR) offers a unique approach to realize regional economic diversification through the application of science and technology. The committee is disappointed, however, that the Department's request did not include funds for ICAR. The committee strongly endorses this program and directs the Department to provide appropriate additional funds for ICAR in the Department's fiscal year 1997 budget submission.

Nevada test site

The committee is concerned that the removal of Yucca Mountain support from the Nevada Test Site (NTS), or even a reduction in support, could adversely affect NTS readiness. Therefore, the committee directs the Nuclear Weapons Council to conduct a study of the impact of the elimination or reduction of Yucca Mountain support from NTS prior to any move by the Department to do so. The study should also examine options to reduce the cost of NTS services to Yucca Mountain if this is the primary rationale for removing or reducing NTS support. The committee recommends that the Department cease any effort to remove Yucca Mountain support prior to the Nuclear Weapons Council providing its study to the committee.

Reporting requirement for the total project costs for construction activities

The cost of construction projects for the Department of Energy includes activities funded from operating expenses as well as construction and capital equipment accounts. In addition to the preparation of the conceptual design report, project-related costs funded from operating expenses include items such as research and development, preparation of design criteria, safety analyses, and environmental documentation. As a result, the Department conducts activities related to construction projects prior to the authorization of the specific project by Congress.

To ensure that all project-related activities funded by the operating expenses are identified and reviewed by Congress, the Department of Energy is directed to identify in the annual budget justification: (1) funding by project for all conceptual design reports where the cost of preparation will exceed $3 million, and (2) funding by project for all project-related activities which will exceed $3 million on proposed construction projects which have a completed conceptual design report but for which specific construction project authorization has not been requested nor provided by Congress.

Commission on management of environmental restoration and waste management program contracts at department of energy sites

The committee is concerned that the vast sums of money authorized and appropriated each year to cleanup Department of Energy nuclear waste facilities are resulting in little measurable progress. A recent Government Accounting Office review of the environmental management program concluded that while "DOE has received about $23 billion for environmental management since 1989, . . . little cleanup has resulted." Similarly, a recent congressional report prepared by Steven Blush and Thomas H. Heitman on the Hanford cleanup program in Richland, Washington found that in the six years since the Hanford cleanup has been funded at a cost of $7.5 billion, "very little cleanup has occurred." The Galvin Commission found that before any program could be successful, the Department of Energy must overcome "disconnects" in: (1) science/engineering and applications, (2) regulatory oversight and compliance, and (3) goals, objectives and means. . . ." Current estimates are that the United States will spend between $350 billion dollars

and $1 trillion before the remediation at all Department of Energy sites is complete.

The committee believes that statutory and regulatory changes alone are inadequate to address the Department of Energy's cleanup problems. A new method of managing the environmental remediation contractual process is necessary. Real progress may be made only with the creation of a high-level blue ribbon commission, similar to the Base Realignment and Closing Commission. This commission could assume ultimate control over which sites are remediated and to what degree, how much money is spent at each site, and the ultimate use for each site once remediation is complete. The commission could be composed of the most qualified and knowledgeable experts in the country. The committee further recommends that the Department of Energy's national laboratories be given a major role in advising the commission and in formulating a more efficient and cost effective environmental remediation contractual process.

Among the initial objectives of such a commission would be to: (1) establish a risk standard for workers, the public and for environmental protection, and (2) establish cleanup standards that bear a reasonable relationship to the anticipated future use of the sites. The commission, in consultation with experts from the national laboratories, could then apply a "triage" cleanup concept at contaminated sites. Under this concept, the commission could provide guidance on, among the sites at a particular Department of Energy facility, which warrant immediate and intensive cleanup efforts and which should be cleaned up at a more moderate pace. Because of cost considerations or technology inadequacies, cleanup at other sites could be deferred. Once these decisions are made, the laboratories could then be assigned oversight responsibility for the execution of a cleanup plan at each site. If the laboratory with supervisory responsibility for managing the cleanup process at a site fails to achieve results, then the commission could intervene and remove the lab from the project or revise the cleanup plan for that site.

The committee intends to work closely with the other House committees of jurisdiction over Department of Energy cleanup activities to further refine this commission concept and to develop statutory changes that may facilitate the cleanup process.

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TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

LEGISLATIVE PROVISION

SECTION 3201—AUTHORIZATION

Section 3201 would authorize $17 million for the Defense Nuclear Facilities Safety Board. The committee plans to conduct a thorough review of the activities and recommendations of the board during its consideration of the Department of Energy's fiscal year 1997 budget request.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

NATIONAL DEFENSE STOCKPILE ISSUES

The committee continues to be concerned that the Department of Defense does not have a realistic or tangible plan that contributes to the planning guidance needed to maintain the National Defense Stockpile. The Strategic and Critical Materials Stock Piling Act (Public Law 103–337) requires the Secretary of Defense to submit a biennial report on stockpile requirements to include his recommendations with respect to stockpile requirements, and any revised national emergency planning assumptions used in determining the stockpile requirements. Even though the Department has had two years to prepare this required report, it has not been received to date by the committee. It is difficult for the committee to provide proper oversight on this important national security component absent the Department's required planning guidance.

The Department has requested authority to transfer $150 million from sales of materials from the stockpile to the services operations and maintenance accounts. Because the Department has not provided Congress with the statutorily required report on stockpile requirements, the committee has not considered the requested transfer authority for fiscal year 1996. The committee has insufficient information upon which to base national security decisions concerning the stockpile.

LEGISLATIVE PROVISIONS

SECTION 3301—FISCAL YEAR 1996 AUTHORIZED USE OF STOCKPILE FUNDS

This section would authorize $77.1 million from the National Defense Stockpile Transaction Fund for the operations and maintenance of the National Defense Stockpile for fiscal year 1996. The section would also permit the use of additional funds for extraordinary or emergency conditions after a notification to Congress.

SECTION 3302—PREFERENCE FOR DOMESTIC UPGRADERS IN DISPOSAL OF CHROMITE AND MANGANESE ORES AND CHROMIUM FERRO AND MANGANESE METAL ELECTROLYTIC

This section would require that in any disposal from the National Defense Stockpile of chromite and manganese ores of metallurgical grade or chromium ferro and manganese metal electrolytic, a right of first refusal shall be given to domestic ferroalloy upgraders.

SECTION 3303—RESTRICTIONS ON DISPOSAL OF MANGANESE FERRO

This section would preclude the disposal of high carbon manganese ferro in the National Defense Stockpile until completing the disposal of all manganese ferro that does not meet the National Defense Stockpile classification of Grade One, Specification 30(a), as revised on May 22, 1992.

SECTION 3304—TITANIUM INITIATIVE TO SUPPORT BATTLE TANK UPGRADE PROGRAM

This section would direct the transfer of up to 250 short tons per year for the next eight years of titanium sponge from the National Defense Stockpile to the Secretary of the Army for use in the weight reduction portion of the main battle tank upgrade program. This transfer would be without charge except for transportation and other related costs.

TITLE XXXIV—NAVAL PETROLEUM RESERVE

NAVAL PETROLEUM & OIL SHALE RESERVES

The Department of Energy (DOE) proposed in its fiscal year 1996 budget request to reduce the funding for the Naval Petroleum and Oil Shale Reserves (NPOSR) to a "caretaker" status, that a government corporation be established for a period of two years, and then to sell the NPOSR. In testimony before the committee, DOE stated that the caretaker status for the NPOSR was an incentive for Congress to seriously consider the corporatization and then sale proposal. In a reversal of its budget proposal, DOE subsequently submitted a proposal to Congress to sell the NPOSR and, failing that, to corporatize the reserves.

The committee is concerned that operating the NPOSR in a caretaker status may cause the considerable loss of revenue for these profitable resources and could reduce their value. The committee notes that the NPOSR have returned a net of over $13 billion to the treasury since 1977 with many more years of profitable operations expected. The reduction of operating funds for the NPOSR for fiscal year 1996 will mean the loss of between $130 to $150 million.

The committee believes that corporatization of the NPOSR for only two years makes no sense as there is no reason to believe that another government entity could operate the reserves any better. It is the committee's view that the federal government should not be in the commercial oil business and the NPOSR could never be managed in the most cost-efficient manner under federal government control. The committee also believes that it is possible for independent commercial oil field assessors to establish a fair market price, at least for NPR–1 and Elk Hills, and establish a minimum asking price.

Therefore, the committee recommends a provision (sec. 3403) that would mandate that NPR–1 be sold within one year. This provision would provide several requirements for the Secretary of Energy to ensure an impartial and fair assessment. In addition, the provision would direct that DOE study the remaining NPOSR and provide recommendations by December 31, 1995, on the most cost-

effective future of these reserves considering the status quo, sale, lease, or the transfer to other federal agencies of any or part of the remaining reserves.

Section 3403 would also intend to resolve the State of California's claim to two sections of land located in Naval Petroleum Reserve Numbered 1 (sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California) that have been the subject of a long-standing dispute between the State and the Federal government. In exchange for relinquishing its claim, the State will receive seven percent of the gross sales proceeds from the sale of the Reserve that remain after the direct expenses of the sale are taken into account. It is the intent of the committee that upon receipt of the proceeds from the sale by the Federal government, payment to the State of California of its share shall be made promptly.

LEGISLATIVE PROVISIONS

SECTION 3401—AUTHORIZATION OF APPROPRIATIONS

This section would authorize the appropriations of $101,028,000 for fiscal year 1996 for the Department of Energy for the operation of the Naval Petroleum Reserves.

SECTION 3402—PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1996

This section would require the Secretary of Energy to sell petroleum produced for the Naval Petroleum Reserves at established prices.

SECTION 3403—SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1 (ELK HILLS)

This section would require the Secretary of Energy to sell Naval Petroleum within one year. The section would also require that equity finalization between the unit partners at Elk Hills be completed five months after enactment.

SECTION 3404—STUDY REGARDING FUTURE OF NAVAL PETROLEUM RESERVES (OTHER THAN NAVAL PETROLEUM RESERVE NUMBERED 1)

This section would require the Secretary of Energy to conduct a study to determine future options regarding the Naval Petroleum Reserves (except Elk Hills) that represents the most cost-effective option for the United States and report to the committee by December 31, 1995.

TITLE XXXV—PANAMA CANAL COMMISSION

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

On January 4, 1995, jurisdiction and responsibility in the House of Representatives for the annual authorization for the Panama Canal Commission (PCC) was transferred to the National Security Committee. The Commission operates as a government agency and is supervised by a nine member supervisory board, commonly referred to as the Panama Canal Commission Board of Directors.

The Panama Canal Commission does not draw from U.S. taxpayer funds for operation of the Canal, but receives funding to cover its operating, administrative, and capital improvement expenses from tolls and other revenue collected. The Commission must receive an annual or semi-annual authorization to spend money it collects. The Commission must also receive an annual or semi-annual authorization for administrative expenditures. The Panama Canal Commission's total operating costs including depreciation and interest payments in Fiscal Year 1996 are estimated at $571 million. This subtitle grants the Commission authority to make expenditures from the Panama Canal Commission Resolving Fund within existing statutory limits for operating and maintenance expenses and sets a limit of $50,741,000 for administrative expenses.

SUBTITLE B—RECONSTITUTION OF COMMISSION AS GOVERNMENT CORPORATION

Section 3522 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) required that the President review and report on possible changes to the Panama Canal Commission to facilitate the operation of the Canal as an autonomous entity after it is transferred to Panama at the end of 1999. This report with recommendations was transmitted to the Congress on April 12, 1994. The major features of the Administration's proposed legislative changes to the Panama Canal Commission are: (1) convert the Commission to a government corporation, although it would still be classified as an agency of the United States. Private audit procedures would be adopted; (2) change the Board of Directors so that no sectoral representation would be required, and two non-voting "international advisors" could be invited to Board meetings; (3) The role of the Department of Defense representative on the Board would not change; he or she would retain the directed vote; (4) Changes in tolls would no longer require approval by the President of the United States; (5) The Commission would still be part of the federal budget process, under the provisions of the Government Corporation Control Act. The Commission would no longer require appropriations authority for its administrative expenses, however, the Commission would still be subject to an annual authorization and appropriate oversight by the Congress. The committee accepted the recommendations of the Administration for changes to the composition and operation of the Commission with only minor clarifying changes. The Committee notes that an earlier study on the role of the Department of Defense in the Commission's structure had recommended that the DOD representative not have the directed vote. The committee examined this issue and accepted the Administration's recommendation that this change in the authority of the Department of Defense could negatively affect the transition coordination among U.S. Government agencies. The committee also largely accepted the remaining Administration recommendations on modifications to the composition and operation of the Commission, making only minor or clarifying changes.

DEPARTMENTAL DATA

The Department of Defense requested legislation, in accordance with the program of the President, as illustrated by the correspondence set out below:

DEPARTMENT OF DEFENSE AUTHORIZATION REQUEST

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, April 20, 1995.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER. The Department of Defense proposes the enclosed draft of legislation, "To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes."

This legislative proposal is part of the Department of Defense legislative program for the 104th Congress and is needed to carry out the President's budget plans for fiscal year 1996. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

This bill provides management authority for the Department of Defense in fiscal year 1996 and makes several changes to the authorities under which we operate. These changes are designed to permit a more efficient operation of the Department of Defense.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its speedy and favorable consideration.

Sincerely,

JUDITH A. MILLER

Enclosure.

MILITARY CONSTRUCTION AUTHORIZATION REQUEST

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, April 24, 1995.

HON. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER. The Department of Defense proposes the following draft of legislation that would authorize certain construction at military installations for Fiscal Year 1996, and for other purposes. The bill would be called the "Military Construction Authorization Act for Fiscal Year 1996." This proposal is necessary to execute the President's Fiscal Year 1996 budget plan. It is drafted to be a principle division of the departmental authorization legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that

its enactment would be in accord with the program of the President.

This proposal would authorize appropriations in Fiscal Year 1996 for new construction and family housing support for the Active Forces, Defense Agencies, NATO Infrastructure Program, and Guard and Reserve Forces. The proposal establishes the effective dates for the program. The proposal includes construction projects resulting from base realignment and closure actions. Additionally, the Fiscal Year 1996 draft legislation includes General Provisions.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its favorable consideration.

Sincerely,

JUDITH A. MILLER.

Enclosure.

COMMITTEE POSITION

On May 24, 1995, the Committee on National Security, a quorum being present, approved H.R. 1530, as amended, by a vote of 48 to 3.

COMMUNICATIONS FROM OTHER COMMITTEES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, May 31, 1995.

Hon. FLOYD SPENCE,
Chairman, Committee on National Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that on Wednesday, May 24, 1995, the Committee on National Security ordered favorably reported H.R. 1530, the National Defense Authorization Act for Fiscal Year 1996. The bill includes a number of provisions that fall within the legislative jurisdiction of the Committee on International Relations pursuant to Rule X(k) of the House of Representatives.

The specific provisions within our committee's jurisdiction are: (1) Title II, Subtitle C—Ballistic Missile Defense Act of 1995 (except for Section 233—Implementation of Policy and Section 236—Ballistic Missile Defense Program Accountability); (2) Section 242—Policy Concerning Ballistic Missile Defense; (3) Section 244—Repeal of Missile Defense Provisions; (4) Section 389—Transfer of Excess Personal Property to Support Law Enforcement Activities; (5) Section 807—International Competitiveness; (6) Section 1032—Repeal of Miscellaneous Provisions of Law (Subsections (a) and (g); (7) Title XI—Cooperative Threat Reduction With States of Former Soviet Union (Sections 1101–1107); (8) Title XII, Subtitle A—Peacekeeping Provisions (Sections 1201–1202); (9) Title XII, Subtitle B—Humanitarian Assistance Programs (Sections 1211–1213); (10) Title XII, Subtitle C—Other Matters (Sections 1221–1227); and (11) Section 3131—Authority to Conduct Program Relating to Fissile Materials.

Pursuant to Chairman Solomon's announcement that the Committee on Rules will move expeditiously to consider a rule for H.R. 1530 and your desire to have the bill considered on the House floor the week of June 12, 1995, and in recognition that both of our staffs have been consulting on these provisions, the Committee on International Relations will not seek a sequential referral of the bill as a result of including these provisions, without waiving or ceding now or in the future this committee's jurisdiction over the provisions in question. I will seek to have conferees appointed for these provisions during any House-Senate conference committee.

I would appreciate your including this letter as a part of the report on H.R. 1530 and as part of the record during consideration of the bill by the House of Representatives.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, May 31, 1995.

Hon. FLOYD SPENCE,
Chairman, Committee on National Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On May 24, 1995, the Committee on National Security ordered reported H.R. 1530, a bill to authorize appropriations for the Department of Defense for Fiscal Year 1996, and for other purposes.

During the markup of this legislation, the Committee adopted the following provisions which fall within the jurisdiction of the Committee on Commerce:

Section 325—Elimination of Authority to Transfer Amounts for Toxicological Profiles;

Section 357—Procurement of Electricity from Most Economical Source;

Section 601—Military Pay Raise for Fiscal Year 1995;

Section 3103—Payment of Penalties;

Section 3201—Authorization for the Defense Nuclear Facilities Safety Board;

Section 3402—Price Requirement on Sale of Certain Petroleum During Fiscal Year 1996;

Section 3403—Authorization to sell the Elk Hills Naval Petroleum Reserve; and

Section 3404—Study Regarding Future of Naval Petroleum Reserves (Other than Naval Petroleum Reserve Numbered 1).

In recognition of your Committee's desire to bring this legislation expeditiously before the House, the Commerce Committee will not seek sequential referral of the bill based on the provisions listed above. By agreeing not to seek a sequential referral of the bill, the Commerce Committee does not waive its jurisdiction over these provisions. In addition, the Commerce Committee reserves its authority to seek equal conferees on these and any other provisions of the bill that are within the Commerce Committee's jurisdiction

during any House-Senate conference that may be convened on this legislation.

I want to thank you and your staff for your assistance in providing the Commerce Committee with a fair opportunity to evaluate its jurisdictional interests in H.R. 1530.

I would appreciate your including this letter as a part of the Committee's report on H.R. 1530 and as part of the record during consideration of this bill by the House.

With best wishes,

Sincerely,

THOMAS J. BLILEY, JR., CHAIRMAN.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES,
Washington, DC, May 23, 1995.

Hon. FLOYD SPENCE,
Chairman, Committee on National Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN SPENCE: Thank you for working with me in your development of a pilot program to assess the feasibility of using private contractors to operate schools under the Defense Dependents' Education Act of 1978 which you intend to adopt and report this week. As you know, these provisions are within the sole jurisdiction of the Economic and Educational Opportunities Committee.

We do not intend to seek sequential referral of H.R. 1530 containing this program. However, the Committee does hold an interest in preserving its future jurisdiction with respect to issues raised in the aforementioned program, and its jurisdictional prerogatives should the provisions of this bill or any Senate amendments thereto be considered in a conference with the Senate. We would expect to be appointed as conferees on these provisions should a conference with the Senate arise.

Again, I thank you for working with me in developing the amendments to H.R. 1530 and look forward to working with you on these issues in the future.

Sincerely,

BILL GOODLING, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATIONAL SECURITY,
Washington, DC, May 30, 1995.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Economic and Educational Opportunities, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Armed Services has just completed mark-up of H.R. 1530, the National Defense Authorization Act for Fiscal Year 1996.

A provision has been included in the bill involving the Defense Dependents' Education Act of 1978 that falls within the legislative jurisdiction of the Committee on Economic and Educational Opportunities.

I appreciate your cooperation in not seeking sequential referral of the bill. I understand and agree that such action shall not be construed as a waiver of your committee's jurisdictional interest. Your letter and this reply will be included in the committee's report on H.R. 1530.

Thank you for your cooperation in this matter.

Sincerely,

FLOYD D. SPENCE, *Chairman.*

FISCAL DATA

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee attempted to ascertain annual outlays resulting from the bill during fiscal year 1996 and the four following fiscal years. The results of such efforts are reflected in the cost estimate prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974, which is included in this report pursuant to clause 2(l)(3)(C) of House rule XI.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 403 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 30, 1995.

Hon. FLOYD SPENCE,
Chairman, Committee on National Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1530, the National Defense Authorization Act for Fiscal Year 1996, as ordered reported by the House Committee on National Security on May 24, 1995.

The bill would affect direct spending and receipts, and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act.

If you wish, we would be pleased to provide further details on the estimate.

Sincerely,

JUNE E. O'NEILL.

Attachment.

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

1. Bill number: H.R. 1530.
2. Bill title: National Defense Authorization Act for Fiscal Year 1996.
3. Bill status: As ordered reported by the House Committee on National Security on May 24, 1995.

4. Bill purpose: This bill would authorize appropriations for 1996 for the military functions of the Department of Defense (DoD) and the Department of Energy (DoE). This bill also would prescribe personnel strengths for each active duty and selected reserve component.

5. Estimated cost to the Federal Government: Table 1 summarizes the budgetary effects of the bill. It shows the effects of the bill on direct spending, revenues, and asset sales and on authorizations of appropriations for 1996. Assuming appropriation of the amounts authorized, the bill would increase funding for discretionary programs in 1996 by $5.5 billion over the 1995 appropriated level, although outlays would decline by $3.2 billion.

Table 2 shows the costs of provisions with the greatest direct spending and revenue impacts. Table 3 details the effects of Title XXXIV of the bill, which would provide for the sale of the Naval Petroleum Reserve at Elk Hills, California. Table 4 gives further details on authorizations of appropriations, including those affecting years after 1996.

6. Basis of estimate: The estimate assumes that the bill will be enacted by October 1, 1995, and that the amounts authorized will be appropriated for 1996. Outlays are estimated according to historical spending patterns.

Direct Spending, Revenues, and Asset Sales.—The bill contains several provisions that would affect direct spending or revenues, and thus would subject the bill to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act (see Table 2). The provisions involve selling the Naval Petroleum Reserve at Elk Hills, forgoing the recovery in foreign military sales of certain nonrecurring costs, spending proceeds from property transactions, and other matters related to compensation and retirement of certain personnel.

TABLE 1.—BUDGETARY IMPACT OF H.R. 1530 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATIONAL SECURITY

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
DIRECT SPENDING, REVENUES, AND ASSET SALES						
Direct Spending:						
Estimated Budget Authority	0	116	460	480	474	475
Estimated Outlays	0	113	458	479	473	475
Revenues	0	4	17	0	0	0
Asset Sales:						
Estimated Budget Authority	0	-1,502	0	0	0	0
Estimated Outlays	0	-1,502	0	0	0	0
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Spending Under Current Law:						
Budget Authority	262,614	0	0	0	0	0
Estimated Outlays	269,943	91,575	39,320	17,893	8,784	3,825
Proposed Changes:						
Authorization Level	0	268,131	0	0	0	0
Estimated Outlays	0	175,212	53,931	20,497	9,363	4,197
Spending Under H.R. 1530:						
Authorization Level [1]	262,614	268,131	0	0	0	0
Estimated Outlays	269,943	266,787	93,251	38,390	18,147	8,022

[1] The 1995 figure is the amount appropriated for programs authorized by this bill.

Note: Costs of the bill would fall under budget function 050, National Defense, except for the sale of the Naval Petroleum Reserve (functions 270 and 950) and certain other items as noted.

Naval Petroleum Reserve. Title XXXIV would require that the Department of Energy sell Reserve 1 (Elk Hills) of the Naval Petroleum Reserve under certain conditions and procedures, direct the department to conduct a study regarding the future of the reserves remaining under government ownership, and authorize the appropriation of $101 million for the operation of all of the reserves in fiscal year 1996.

TABLE 2.—DIRECT SPENDING AND REVENUE IMPACTS OF H.R. 1530

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
DIRECT SPENDING					
Naval Petroleum Reserve	105	450	444	418	397
Cost Recovery in Foreign Military Sales	0	0	25	48	70
Retirement Benefits for Civilians	3	6	7	4	4
Property Transactions	1	2	3	3	4
Dependent Compensation	4	0	0	0	0
Total Direct Spending	113	458	479	473	475
REVENUES					
Retirement Benefits for Civilians	4	17	0	0	0

Under the provisions in this bill, the sale of the Elk Hills reserve would have three types of budgetary impacts over the 1996-2000 period (see Table 3). First, we estimate that selling the reserve would yield about $1.5 billion in nonroutine asset sale receipts by the end of fiscal year 1996. Although such receipts would reduce the deficit, they would not count as pay-as-you-go savings under the Balanced Budget and Emergency Deficit Control Act of 1985. For the purposes of this estimate, we assume that the government would be paid upon approval of the contracts of sale in fiscal year 1996. Under this bill, the costs associated with administering the sale, which are estimated to total less than $2 million, would be deducted from the proceeds. Second, paying seven percent of the net proceeds from the sale to the state of California would result in direct spending of an estimated $105 million in 1996, which would be counted for pay-as-you-go purposes. Third, beginning in 1997, the government would forgo the offsetting receipts that otherwise would have been collected from the sale of oil and related products from Elk Hills. These receipts, which are included in budget function 270, are projected to total about $400 million annually under current law through 2000.

TABLE 3.—BUDGETARY IMPACT OF TITLE XXXIV (NAVAL PETROLEUM RESERVES) OF H.R. 1530 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATIONAL SECURITY

[By fiscal year, in millions of dollars]

Category	1995	1996	1997	1998	1999	2000
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Projected Spending Under Current Law:						
Budget Authority [1]	187	0	0	0	0	0
Estimated Outlays	199	89	26	0	0	0
Proposed Changes						
Authorization Level	0	101	0	0	0	0
Estimated Outlays	0	56	30	13	0	0
Projected Spending Under Title XXXIV						
Authorization Levela	187	101	0	0	0	0

TABLE 3.—BUDGETARY IMPACT OF TITLE XXXIV (NAVAL PETROLEUM RESERVES) OF H.R. 1530 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATIONAL SECURITY—Continued

[By fiscal year, in millions of dollars]

Category	1995	1996	1997	1998	1999	2000
Estimated Outlays	199	144	56	13	0	0
DIRECT SPENDING						
Payment of Sale Proceeds to California						
Estimated Budget Authority	0	105	0	0	0	0
Estimated Outlays	0	105	0	0	0	0
Forgone Offsetting Receipts from Elk Hills						
Estimated Budget Authority	0	0	450	444	418	397
Estimated Outlays	0	0	450	444	418	397
ASSET SALE RECEIPTS						
Proceeds from the Sale of Elk Hills						
Estimated Budget Authority	0	-1,500	0	0	0	0
Estimated Outlays	0	-1,500	0	0	0	0

[1] The 1995 amount represents funds already appropriated.

Note: Under current law, forgone offsetting receipts would count as an increase in direct spending, which is subject to pay-as-you-go procedures, while nonroutine asset sale receipts do not count as deficit reduction for pay-as-you-go purposes. Authorization changes also have no pay-as-you-go implications; rather, they are subject to the discretionary spending caps.

For the purposes of this estimate, CBO assumes that the $101 million authorized for fiscal year 1996 will be appropriated and will be spent at historical rates. Appropriation of this amount would represent a significant reduction relative to current levels of operational support and could result in a loss of receipts of up to $75 million in 1996. Any loss of receipts resulting from lower appropriations would not be attributed to H.R. 1530. We also assume that the authorization for 1996 includes any amounts needed to fund DOE's study of the future of the other naval petroleum reserves. Based on information from DOE, we estimate that this study would cost about $400,000.

Cost Recovery in Foreign Military Sales. Section 807 would strike the section of the Arms Export Control Act that requires government-to-government sales of major defense equipment to include a charge for the recovery of a proportionate amount of any nonrecurring cost of research, development, and production. This provision would apply to sales agreements signed after the date of enactment. Charges for nonrecurring costs are collected upon delivery; therefore the bill would not affect collections until 1998. CBO estimates that enactment of section 807 would lower Department of Defense receipts by $25 million in 1998, $48 million in 1999, and $70 million in 2000.

Retirement Benefits for Civilians. Section 338 would allow certain federal workers who were employed by nonappropriated fund instrumentalities (NAFI), and who are currently employed by the Department of Defense or the legislative branch and who are covered under the Federal Employees Retirement System, to receive retirement credit for their NAFI service. Employees would have to contribute to the retirement trust fund for each year of service for which they wish to receive credit. The bill limits the number of people who can apply for service credit in three ways. First, only employees who converted from a nonappropriated fund positions to appropriated fund positions after 1986 may apply. Second, the bill does not cover employees who convert in the future—the application period ends six months after enactment of the bill. Lastly, em-

ployees would no longer be able to apply for service credit once the Office of Personnel Management (OPM) determines that the actuarial present value of all benefits payable as a result of the enactment of this section has reached $50 million. CBO assumes, however, that OPM would not be able to implement this requirement and keep people from applying for credit.

CBO estimates that approximately 8,000 employees would choose to purchase additional retirement credit, increasing revenues in 1996 and 1997 by $4 million and $17 million, respectively. Additional spending for annuity payments would total $3 million in 1996, $6 million in 1997, $7 million in 1998, $4 million in 1999, and $4 million in 2000.

Property Transactions. Section 388 would provide permanent authority for DoD to sell certain property abandoned on military installations and use the proceeds for morale, welfare, and recreation activities. This provision would result in asset sales that would total less than $500,000 annually with direct spending of the same amount.

Section 2824 would allow the Army to spend the proceeds from selling certain property at the former Fort Ord Military Complex on morale, welfare, and recreation (MWR) activities. Under current law, the proceeds would be used to meet the costs of closing bases. Under H.R. 1530, an increase in discretionary appropriations of about $15 million would be needed to meet the base closing costs.

Section 2832 would authorize the Secretary of the Air Force to convey at fair market value a portion of Elmendorf Air Force Base in Anchorage, Alaska. The proceeds from this asset sale, which would total about $2 million, would be available for expenditure only if appropriated by the Congress.

Section 2812 would allow DoD to deposit proceeds from certain leases into the account used to fund base closures. Once deposited, the proceeds would be available for expenditure. Under current law, the lease proceeds, which would total about $4 million annually, are unavailable for expenditure unless appropriated by the Congress. Under this provision, direct spending would total about $1 million in 1996 and would increase to $4 million by 2000.

Other Provisions. Section 551 would lower military retirement annuities for officers who are unable to perform their duties because of desertion, absence, confinement, or other such factors. A lower annuity would result because the lost time would not be credited toward their time of service. Although some officers would extend their service to make up for the lost time, others would not. The savings associated with this provision are expected to be insignificant.

Section 556 would compensate dependents of military personnel who are victims of abuse by their military sponsor. Public Law 103–160 provided up to 36 months of payments to these dependents, but the regulations outlining how payments are to be made were not completed until six months following enactment. This provision would compel the Secretary of Defense to make payments to beneficiaries who became eligible for payments during that six-month period. Approximately 260 families would receive retroactive payments totalling $4 million.

Section 517 would establish a program to insure reserve personnel against a loss of personal income during certain periods of active duty. Participants would pay premiums into a fund administered by the Secretary of the Treasury, and benefits would be paid out to eligible recipients subject to the availability of funds. CBO is unable to estimate the participation rate in such a program or the amount of premiums each individual would pay. Nevertheless, no net additional spending would occur as a result of this provision in the long run because the value of benefits would be limited to the assets of the fund.

Section 742 would waive reimbursement to the government from individuals who received health care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) even though they are eligible for Medicare. According to DoD, last year it received about $140,000 from people who received care through CHAMPUS instead of Medicare. The five-year costs of this provision would be less than $1 million.

Authorizations of Appropriations

The bill specifically authorizes appropriations of $199 billion for 1996 for operation and maintenance, procurement, research, development, test and evaluation, nuclear weapons programs and other DoD programs. These authorizations fall under National Defense, budget function 050.

In addition, the bill would authorize appropriations for other budget functions:

The bill would authorize $101 million for operating the Naval Petroleum Reserve (function 270) in 1996.

It would authorize appropriations of $59 million for the Armed Forces Retirement Home (function 700).

Section 2806 of the bill would establish a pilot program to lower interest rates temporarily on veterans' housing loans in areas that the Secretary of Defense designates as having housing shortages. The section authorizes $3 million a year to be appropriated to cover administrative costs (function 700) and $10 million in 1996 to buy down loans (function 050). According to the Department of Veterans Affairs (VA), the average loan would be about $65,000. CBO estimates that the cost would be about $3,240 a loan and that about 3,100 borrowers would benefit. This provision would also affect the Guaranty and Indemnity Fund program account to the extent that it increases participation in the VA loan program. If all of the new authority is used for additional loan originations, the estimated guaranty cost to the government would be at most $8 million. However, the lack of available demographic data prevents a precise estimate of this cost.

The bill also contains both specific and implicit authorizations of appropriations for other military programs, primarily for military personnel costs, some of which extend beyond 1996. Table 4 contains estimates for the amounts authorized and the related outlays. The following sections describe the estimated authorizations shown in Table 4 and provide information about CBO's cost estimates.

Endstrength. The bill would authorize active and reserve component endstrengths for 1996 at a cost of almost $68 billion. Endstrengths specifically stated in the bill for active-duty per-

sonnel would total about 1,485,000—the same as the Administration's request and about 38,000 below the level estimated for 1995. In addition, the bill would authorize appropriations in the amount of $112 million to be used to fund a higher endstrength. CBO estimates that approximately 7,600 military personnel would be added as a result of this provision. Thus, the net effect on endstrength relative to the 1995 level is a reduction of slightly more than 30,000 people.

DoD's reserve endstrength would be authorized at about 927,000 for 1996—the same as the Administration's request, but about 38,000 less than the level estimated for 1995. Also, the bill would authorize an endstrength of 8,000 in 1996 for the Coast Guard Reserve, which is the same as the Administration requested and the 1995 level; this authorization would cost about $65 million and would fall under budget function 400, Transportation.

Compensation and Benefits. Section 601 would authorize a 2.4 percent increase in the rates of basic pay and subsistence for military personnel, the same amount as contained in the Administration's budget. The cost of this increase relative to 1995 rates of pay is about $1 billion.

This section would also call for the basic allowance for quarters (BAQ) to increase by 5.2 percent. Under current law BAQ increases according to the military pay raise; consequently, the 2.4 percent pay raise authorized in this bill would raise BAQ by $83 million. The provisions that would raise BAQ the additional 2.8 percent would cost another $97 million. Thus, BAQ would increase by $180 million compared to 1995 rates.

Section 604 would make two changes that would increase Variable Housing Allowance (VHA) payments to servicemembers living in areas with high housing costs. The first change would increase the minimum payment to junior enlisted personnel at a cost of about $200 million annually. Because this provision would not take effect until July 1, 1996, costs in 1996 would be $50 million. The second change would protect members' VHA rates from being reduced during a tour of duty. VHA rates are calculated annually for different localities and may change depending on fluctuations in local housing costs. Most tours of duty last longer than one year, and VHA may be recalculated several times during that period. This provision would allow only increases in the payment, unless individual members were able to lower their housing expenses. The cost of this change is $18 million annually. Because the provision would not take effect until January 1, 1996, its first-year costs would total $13 million.

Several sections would extend for two or more years certain payment authorities that are scheduled to expire at the end of 1995 or 1996. Payment authorities for enlistment and reenlistment bonuses for active duty personnel would cost $137 million in 1997. Extension of various bonus programs for Selected Reserve personnel would increase costs by $48 million in 1997. Authorities to make certain payments to medical professionals would also be extended—payments related to the pay grade of new physicians would cost about $1 million in 1996, and special payments to others, including nurse officer candidates, registered nurses, and nurse anesthetists, would increase authorizations by $11.6 million

in 1997 and 1998. Finally, extensions of special payments for aviators and nuclear-qualified personnel would total $15 million in 1996, $12 million in 1997, $21 million in 1998, and $8 million in 1999 and 2000.

Section 553 would establish a new education benefit for reserve personnel that would cost about $16 million in 1997 rising to about $80 million in 2000. Reserve personnel in skills or specialties designated by the Secretary of Defense would be eligible for additional education benefits of as much as $350 a month. According to DoD, the program would begin as a pilot program. Assuming that preparing the program takes one year, there would be no significant costs until 1997, when about 10,000 reservists would be offered the benefit. Eligibility is expected to double by 2000.

TABLE 4.—AUTHORIZATIONS OF APPROPRIATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1996 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATIONAL SECURITY

[By fiscal year, in millions of dollars]

Category	1996	1997	1998	1999	2000
Stated Authorizations	198,760	3	3	3	3
Estimated Outlays	109,053	50,503	20,601	9,432	4,227
Endstrengths:					
Function 050:					
Estimated Authorization Level	67,722	0	0	0	0
Estimated Outlays	64,317	3,405	0	0	0
Function 400:					
Estimated Authorization Level	65	0	0	0	0
Estimated Outlays	59	7	0	0	0
Compensation and Benefits:					
Military Pay Raise:					
Estimated Authorization Level	1,036	1,359	1,346	1,343	1,343
Estimated Outlays	984	1,343	1,347	1,343	1,343
Basic Allowance for Quarters:					
Estimated Authorization Level	97	131	134	136	139
Estimated Outlays	92	129	134	136	139
Variable Housing Allowance:					
Estimated Authorization Level	63	220	224	229	236
Estimated Outlays	60	212	224	229	236
Expiring Authorities—Active Duty:					
Estimated Authorization Level	0	137	173	74	68
Estimated Outlays	0	130	171	79	68
Expiring Authorities—Reserves:					
Estimated Authorization Level	0	48	64	33	33
Estimated Outlays	0	46	63	35	33
Expiring Authorities—Medical:					
Estimated Authorization Level	1	12	12	0	0
Estimated Outlays	1	11	12	1	0
Expiring Authorities—Aviation & Nuclear:					
Estimated Authorization Level	15	12	21	8	8
Estimated Outlays	14	12	21	9	8
Education Benefits Reserve:					
Estimated Authorization Level	0	16	32	48	80
Estimated Outlays	0	15	31	47	78
Shipboard Housing Allowance:					
Estimated Authorization Level	4	20	24	24	25
Estimated Outlays	4	19	24	24	25
Basic Allowance for Subsistence:					
Estimated Authorization Level	-11	-22	-23	-23	-24
Estimated Outlays	-10	-21	-23	-23	-24
Special Pay for Recruiters:					
Estimated Authorization Level	14	19	19	19	19
Estimated Outlays	13	19	19	19	19

TABLE 4.—AUTHORIZATIONS OF APPROPRIATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1996 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATIONAL SECURITY—Continued

[By fiscal year, in millions of dollars]

Category	1996	1997	1998	1999	2000
Sea Pay for Tender Crews:					
Estimated Authorization Level	10	10	10	10	10
Estimated Outlays	9	10	10	10	10
Pay Grade Limitations:					
Estimated Authorization Level	4	8	8	8	8
Estimated Outlays	4	8	8	8	8
Pay of Prisoners:					
Estimated Authorization Level	·6	·6	·6	·7	·7
Estimated Outlays	·6	·6	·6	·7	·7
1996 Retirement COLA:					
Estimated Authorization Level	403	0	0	0	0
Estimated Outlays	403	0	0	0	0
Health Care Provisions:					
CHAMPUS Benefits:					
Estimated Authorization Level	a	9	9	8	8
Estimated Outlays	a	7	9	8	8
Medical/Dental for Selected Reserve:					
Estimated Authorization Level	a	5	6	6	6
mated Outlays	a	4	6	6	6
TRIARE Evaluation/Report:					
Estimated Authorization Level	0	3	5	5	5
Estimated Outlays	0	2	5	5	5
Acquisition Work Force Reductions:					
Estimated Authorization Level	([1])	·284	·751	·1,423	·1,615
Estimated Outlays	([1])	·279	·737	·1,397	·1,585
War Reserve Stocks:					
Estimated Authorization Level	([1])	·150	·150	·90	0
Estimated Outlays	([1])	·120	·150	·102	·18
Total Authorizations of Appropriations:					
Estimated Authorization Level	268,131	1,550	1,160	411	346
Estimated Outlays from Authorizations for 1996	175,212	53,931	20,497	9,363	4,197
Estimated Outlays from Authorizations for 1997-2000	0	1,483	1,170	432	356

[1] The 1996 impacts of these provisions are included in the amounts specifically authorized to be appropriated in the bill.

Based on the experience of similar programs, CBO estimates that about 65 percent of those eligible would use their benefit. Because the program would not reach steady state before 2000, outlays would increase yearly throughout the five-year period.

Section 603 would authorize payment of housing allowances to certain personnel in pay grade E-6 who are assigned to shipboard sea duty. This change would eventually affect 4,200 personnel, who would receive housing allowances averaging $5,700 annually. Payments would not immediately increase in every case, however, because individuals would have to show proof of housing expenses in order to qualify for the payment. The effective date of the change would be July 1, 1996. Total payments would increase by $4 million in 1996, $20 million in 1997, and about $24 million annually in 1998 through 2000.

Section 602 would lower costs for payments of the Basic Allowance for Subsistence (BAS). BAS is a cash allowance paid to military members who do not eat in government dining facilities, or mess halls. Most BAS recipients are married or live in private housing, away from dormitories and barracks with mess halls. Still, more than 17 percent of Navy and Air Force personnel living

in dormitories currently receive payments. This provision would allow a maximum of 12 percent of dormitory residents of each military service to receive BAS payments. This change would stop payments of about $2,600 a year to about 8,500 people, for an annual savings of $22 million. This estimate assumes the reduction would be phased in gradually during 1996, for a savings of $11 million in that year.

Section 617 would provide for an increase of up to $100 per month in the rate of special pay for enlisted personnel who serve as recruiters. Approximately 17,000 recruiters would receive increases averaging just under $100 per month. This change would be effective January 1, 1996, and would increase costs by $14 million in that year and $19 million annually thereafter.

Section 616 would authorize the payment of career sea pay for duty on board submarine and destroyer tenders. This change would result in additional payments averaging $2,000 per year to about 5,100 personnel, at a total annual cost of $10 million.

Section 402 would provide temporary relief from the limitations on the number of officers who may serve on active duty in certain pay grades. The effect of this provision would be to increase promotions from the next lower pay grade. This change would affect about 3,000 officers in the Navy and Air Force and increase pay costs by $4 million in 1996 and by $8 million a year thereafter.

Section 542 would cause military personnel who are confined by sentence of court-martial to forfeit their pay and allowances. The Department of Defense estimates that payments currently made to this group total $16 million annually, including contributions to the military retirement trust fund on their behalf. Forfeiture would not be required for personnel with dependents, probably about 60 percent of the total population. Thus, annual savings from stopping payments to the remainder would amount to $6 million annually.

Military Retirement Cost-of-Living Allowance. Section 633 would move the effective date of the cost-of-living allowance (COLA) for military retirement annuities from September 1996 to March 1996 to the extent provided in an appropriations act. The six-month advance in the COLA would cost $403 million in 1996 and would have no budgetary impact in later years. Because the COLA would be subject to appropriations action, its cost would be charged against the discretionary caps and would not be subject to pay-as-you-go procedures.

Health Care Provisions. Section 701 would increase the number of routine physical examinations and immunizations covered by the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). Currently CHAMPUS only covers immunizations for children less than two years old. This provision would expand coverage to include preventive visits and immunizations for children up to 19 years old, and it would allow CHAMPUS to cover routine office visits for pap smears and mammograms. These provisions would cost about $34 million over the 1997–2000 period.

Section 703 would provide annual medical and dental screenings to members of the Selected Reserve of the Army who are assigned to units scheduled for deployment within 75 days after mobilization. The provision would also provide full physical examinations to reservists aged 40 and over once every two years. Dental care

would be provided to ensure that members meet the dental standards required for deployment. According to DoD, this provision would apply to about 57,500 reservists. Because of geographical constraints, most of the medical care would be contracted out. The legislation would also direct the Secretary of Defense to conduct a demonstration program to offer other members of the Selected Reserve affordable dental care at no cost to the department. These provisions would cost about $23 million over the 1997–2000 period.

Section 715 would require DoD to use a federally funded research and development center to evaluate the effectiveness of the TRICARE program. Based on the cost of similar reports, this provision would cost approximately $5 million annually after full program implementation by the end of 1997.

The bill contains several provisions that would have little or no cost during the next five years:

Section 733 would allow DoD to collect information regarding insurance, medical service, or health plans of third-party payers of beneficiaries it covers. Use of the Health Care Financing Administration's database for such purposes would require annual funding of less than $500,000.

Section 735 would expand the Financial Assistance Program for health care professionals in reserve components to include dental specialties. Based on historical rates, the Department of Defense would expect no more than five oral surgeons to be enrolled in the program at any one time. The five-year cost would total less than $1 million.

Section 741 would terminate the Psychopharmacology Demonstration Program. This provision would save about $1.5 million over five years.

Section 744 would direct DoD to implement a demonstration program to evaluate the feasibility of providing additional shock trauma training for military medical personnel through the use of civilian hospitals. According to DoD, the program participants would be assigned to shock trauma units for three- to six-month periods and the number of military medical personnel participating in the demonstration program would be small. The expected annual costs would be minimal.

Acquisition Workforce Reductions. Section 902 would require that the Secretary of Defense to reduce by the end of 1999 the number of civilians in positions related to acquisition programs to 75 percent of 1994 levels. This would reduce the number of acquisition workers by 110,000, or 30,000 more than under the Administration's current plan, assuming reductions in the acquisition workforce are proportional to those in the overall DoD workforce. This change would result in savings of more than $4 billion from 1997 to 2002.

The Federal Work Force Restructuring Act of 1994 (Public Law 103–226) stipulates that the number of full-time-equivalent (FTE) positions in the executive branch be reduced to 1,882,000 positions by 1999. It is likely that DoD will be required to help achieve this demand. Therefore, section 902 would result in savings only if FTEs are reduced below the levels in P.L. 103–226.

War Reserve Fuel Stocks. Section 392 would require DoD to reduce its stock of fuel for war reserves. DoD would meet this goal

primarily by not replenishing its stocks after normal operations, although the bill would allow DoD to sell stocks at fair market value. Existing contracts and other operational considerations would postpone most of the budgetary impact until after 1996. The estimate assumes that the reductions would occur over four years and save a total of $520 million.

Military Family Housing. Section 2801 would establish a new means of financing the construction of military family housing. It would authorize DoD to use direct loans, loan guarantees, long-term leases, rental guarantees, barter, direct government investment, and other financial arrangements to encourage private sector participation in building military housing.

Appropriations of $22 million would be authorized in 1996 for a new account, the Family Housing Improvement Fund, which would be available to fund the program. The fund would also receive transfers from other accounts, receipts from property sales and rents, returns on any capital, and other income from operations or transactions connected with the program. The amounts in the fund would be available to acquire housing using the various techniques mentioned above, but the total value of budget authority for all contracts and investments undertaken would be limited to $1 billion.

CBO does not estimate any budgetary impact beyond the stated authorizations of appropriations in the bill—$22 million for the new fund and other amounts in the accounts from which money could be transferred into the new fund. Some of the options available for use of the Family Housing Improvement Fund involve upfront commitments of government resources that would be spent over a long period of time. According to standard principles of federal accounting, obligations of the fund should reflect the full amount of the financial liability incurred when the government makes such a commitment. In the case of a long-term lease or rental guarantee, for example, obligations should equal the total amount of lease or rental payments over the life of the contract and appropriations to cover the full amount of such obligations should be available before entering into the lease or guarantee. Some commitments could take the form of lease-purchases, which would require the recording of both obligations and outlays up front. For a direct loan or loan guarantee, obligations should equal the estimated present value of federal transactions with the public, excluding receipts from other federal budget accounts that depend on the availability of future appropriations. If obligations were not recorded accurately, outlays could be substantially higher than this estimate assumes.

Defense Export Guarantees. Section 1224 would authorize the Secretary of Defense to finance the export of defense articles and defense services through a new loan guarantee program. The authority to incur subsidy and administrative costs is limited to amounts provided in advance in appropriations acts. Because the bill is silent on the amount of the authorization, CBO assumes that it is open-ended. Nevertheless, CBO does not have an estimate for the budgetary impacts of the implicit authorization. Because some of the countries eligible for guarantees under the program have high credit risks, the subsidy costs could be significant.

Panama Canal Commission. Title XXXV would authorize the Panama Canal Commission (PCC) to spend any sums available to it from operating revenues or Treasury borrowing for operation, maintenance, and improvement of the canal in fiscal year 1996. This title also would restructure the commission as a wholly owned government corporation. The PCC would continue to derive its financing for canal operations and other expenditures from the Panama Canal Revolving Fund. Spending from the fund would continue to be limited by the amounts received from tolls and other canal charges (estimated to be about $577 million in 1995). PCC expenditures would remain subject to specific authorization by the Congress, but the bill would repeal an existing requirement that funding for administrative expenses be provided in appropriations acts.

At present, spending from the Panama Canal Revolving Fund is considered discretionary because appropriations acts customarily limit the amount that may be obligated from it each year. Upon enactment of this legislation, however, outlays from the fund would be treated as mandatory spending. The change in spending category would have no impact on federal spending. Incorporating the commission could result in minor one-time costs, but such costs would be offset by either an increase in toll rates or a decrease in other spending from the fund. Other provisions of Title XXXV, including those that specify the commission's new authorities as a corporation and give it more direct authority over the basis and level of tolls, also would have no budgetary impact.

CBO estimates collections in 1996 from tolls and other canal charges will be about $588 million, or about $12.5 million more than outlays for the year.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because this bill would affect direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998
Change in outlays	0	113	458	479
Change in receipts	0	4	17	0

8. Estimated cost to State and local governments: The bill would affect the budgets of state and local governments through two provisions: one that would change the way distilled spirits are distributed on military installations and another that would sell the Naval Petroleum Reserve.

Distribution of Distilled Spirits. The bill would require the Defense Department to use the most economical means of distributing distilled spirits to facilities that sell them on military installations. It would also prevent purchases from a private distributor if they were directly or indirectly subject to state taxation.

The costs to all states of this provision could total a few million dollars annually. The Army and Air Force Exchange Service (AAFES) purchases about $71 million of distilled spirits from local

distributors and another $68 million worth from its own distribution system. States would lose revenue from sales taxes to the extent that private distributors sold less to the Defense Department or if they made sales to the Department exempt from sales taxes.

Naval Petroleum Reserve. Title XXXIV would allocate seven percent of the net proceeds from the sale of Elk Hills to the state of California if it agrees to release all claims against the United States by the State and the Teacher's Retirement Fund with respect to production and proceeds from the reserve. Our estimates suggest that California would receive about $105 million at the end of fiscal year 1996 under these provisions.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by:

Elizabeth Chambers, Kent Christensen, Victoria Fraider, and Amy Plapp prepared the estimates affecting the Department of Defense; Joseph Whitehill prepared the estimate for the foreign military sales and the export guarantee programs. Deborah Reis prepared the estimate for the Panama Canal Commission. Peter Fontaine and Kathy Gramp prepared the estimates for the Naval Petroleum Reserve; Wayne Boyington prepared the estimate for the costs of the retirement credits of employees of non-appropriated fund instrumentalities.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

The committee generally concurs with the estimate as contained in the report of the Congressional Budget Office.

INFLATION IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee concludes that the bill would have no significant inflationary impact.

OVERSIGHT FINDINGS

With reference to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, this legislation results from hearings and other oversight activities conducted by the committee pursuant to clause 2(b)(1) of rule X.

With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, this legislation does not include any new spending or credit authority, nor does it provide for any increase or decrease in tax revenues or expenditures. However, two sections of the bill may be construed to provide new budget authority. These sections are:

(1) section 556—Transitional compensation for dependents of members of the armed forces separated for dependent abuse;

(2) section 2812—Deposit of proceeds from leases of property located at installations being closed or realigned.

The requirements of section 308(a)(1) of the Congressional Budget Act of 1974 as that section pertains to the above cited provisions are addressed in the estimate prepared by the Director of the Con-

gressional Budget Office under section 403 of such Act and included in this report.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Reform and Oversight pertaining to the subject matter of H.R. 1530.

ROLL CALL VOTES

In accordance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, roll call and voice votes were taken with respect to H.R. 1530. These votes are attached to this report.

H.R. 1530 was ordered favorably reported to the House, a quorum being present, by a vote of 48–3.

Offset Folios 501 to 525 Insert here

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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Subtitle C—Navy Programs

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¿SEC. 122. SEAWOLF SUBMARINE PROGRAM.

¿(a) LIMITATION ON PROGRAM COST.—Except as provided in subsection (b), the total amount obligated on or expended for procurement of the SSN–21 and SSN–22 Seawolf submarines may not exceed $4,759,571,000.

¿(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

¿(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

¿(2) The amounts of increases in costs attributable to economic inflation.

¿(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

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¿SEC. 124. PROHIBITION ON TRIDENT II BACKFIT.

¿(a) LIMITATION.—The Secretary of the Navy may not modify any Trident I submarine to enable that submarine to be deployed with Trident II (D–5) missiles.

¿(b) WAIVER AUTHORITY.—If the Secretary of Defense determines that adherence to the prohibition in subsection (a) would result in a significant national security risk to the United States, the Secretary may waive that prohibition. Such a waiver may not take effect until the Secretary submits to Congress a certification of that determination and of the reasons for that determination.

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Subtitle D—Air Force Programs

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SEC. 133. HEAVY BOMBER FORCE REQUIREMENTS.

(a) * * *

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¿(e) LIMITATION ON FUND.—None of the amount available for the Enhanced Bomber Capability Fund may be obligated for advance procurement of new B–2 aircraft (including long-lead items).

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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Subtitle B—Program Requirements, Restrictions, and Limitations

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SEC. 216. ADVANCED LITHOGRAPHY PROGRAM.

(a) PURPOSE.—The purpose of the Advanced Lithography Program (in this section referred to as the "ALP") is to fund goal-oriented research and development to be conducted in both the public and private sectors ¿to help achieve a competitive position for American lithography tool manufacturers in the international market place. *to ensure that lithographic processes being developed by American-owned manufacturers operating in the United States will lead to superior performance electronics systems for the Department of Defense. For purposes of the preceding sentence, the term "American-owned manufacturers" means a manufacturing company or other business entity the majority ownership or control of which is by United States citizens.*

(b) CONDUCT OF PROGRAM.—(1) * * *

* * * * * * *

(3) The Director of the Defense Advanced Research Projects Agency may set priorities and funding levels for various technologies being developed for the ALP and shall consider funding recommendations by the SIA as advisory.

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle B—Defense Business Operations Fund

SEC. 311. OVERSIGHT OF DEFENSE BUSINESS OPERATIONS FUND.

(a) * * *

¿(b) PURCHASE FROM OTHER SOURCES.—The Secretary of Defense or the Secretary of a military department may purchase goods and services that are available for purchase from the Defense Business Operations Fund from a source other than the Fund if the Secretary determines that such source offers a more competitive rate for the goods and services than the Fund offers.

¿(c) LIMITATION ON INCLUSION OF CERTAIN COSTS IN DBOF CHARGES.—A charge imposed for a good or service provided through the Fund may not include amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

¿(d) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense shall establish billing procedures to ensure that the balance in the Fund does not exceed the amount necessary to provide for the working capital requirements of the Fund, as determined by the Secretary.

¿(e) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense shall annually submit to the congressional defense committees, at the same time that the President submits the budget under section 1105 of title 31, United States Code, the following:

¿(1) A detailed report that contains a statement of all receipts and disbursements of the Fund (including such a statement for each subaccount of the Fund) for the year for which the report is submitted.

¿(2) A detailed proposed budget for the operation of the Fund for the fiscal year for which the budget is submitted.

¿(3) A comparison of the amounts actually expended for the operation of the Fund for the previous fiscal year with the amount proposed for the operation of the Fund for that fiscal year in the budget.

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Subtitle G—Reviews, Studies, and Reports

¿SEC. 361. REPORTS ON TRANSFERS OF CERTAIN OPERATION AND MAINTENANCE FUNDS.

¿(a) ANNUAL REPORTS.—In each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees, not later than the date on which the President submits the budget pursuant to section 1105 of title 31, United States Code, in that year, a report on the following:

¿(1) Each transfer of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations during the preceding fiscal year, including the reason for the transfer.

¿(2) Each transfer of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in

subsection (c) within that appropriation for any other such activity during the preceding fiscal year, including the reason for the transfer.

¿(b) MIDYEAR REPORTS.—On May 1 of each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the following:

¿(1) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations, including the reason for the transfer.

¿(2) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in subsection (c) within that appropriation for any other such activity, including the reason for the transfer.

¿(c) COVERED ACTIVITIES.—The activities referred to in subsections (a) and (b) are the following:

¿(1) Activities for which amounts are appropriated for the Army for operation and maintenance for operating forces for (A) combat units, (B) tactical support, (C) force-related training/special activities, (D) depot maintenance, and (E) JCS exercises.

¿(2) Activities for which amounts are appropriated for the Navy for operation and maintenance for operating forces for (A) mission and other flight operations, (B) mission and other ship operations, (C) fleet air training, (D) ship operational support and training, (E) aircraft depot maintenance, and (F) ship depot maintenance.

¿(3) Activities for which amounts are appropriated for the Air Force for operation and maintenance for operating forces for (A) primary combat forces, (B) primary combat weapons, (C) global and early warning, (D) air operations training, (E) depot maintenance, and (F) JCS exercises.

¿(d) REPEAL.—Section 377 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1638) is hereby repealed.

SEC. 361. SEMIANNUAL REPORTS TO CONGRESS ON TRANSFERS FROM HIGH-PRIORITY READINESS APPROPRIATIONS.

(a) ANNUAL REPORTS.—(1) During 1996 and 1997, the Secretary of Defense shall submit to the congressional defense committees a report on transfers during the preceding fiscal year from funds available for the budget activities specified in subsection (d) (hereinafter in this section referred to as "covered budget activities"). The report each year shall be submitted not later than the date in that year on which the President submits the budget for the next fiscal year to Congress pursuant to section 1105 of title 31, United States Code.

(2) Each such report shall include—

(A) specific identification of each transfer during the preceding fiscal year of funds available for any covered budget activity, showing the amount of the transfer, the covered budget activity from which the transfer was made, and the budget activity to which the transfer was made; and

(B) with respect to each such transfer, a statement of whether that transfer was made to a budget activity within a different appropriation than the appropriation containing the covered budget activity from which the transfer was made or to a budget activity within the same appropriation.

(b) MIDYEAR REPORTS.—On May 1 of each year specified in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a report providing the same information, with respect to the first six months of the fiscal year in which the report is submitted, that is provided in reports under subsection (a) with respect to the preceding fiscal year.

(c) MATTERS TO BE INCLUDED.—In each report under this section, the Secretary shall include the following:

(1) With respect to each transfer of funds identified in the report, a statement of the specific reason for the transfer.

(2) For each covered budget activity—

(A) a statement, for the period covered by the report, of—

(i) the total amount of transfers into funds available for that activity;

(ii) the total amount of transfers from funds available for that activity; and

(iii) the net amount of transfers into, or out of, funds available for that activity; and

(B) a detailed explanation of the transfers into, and out of, funds available for that activity during the period covered by the report.

(d) COVERED BUDGET ACTIVITIES.—The budget activities to which this section applies are the following:

(1) The budget activity groups (known as "subactivities") within the Operating Forces budget activity of the annual Operation and Maintenance, Army, appropriation that are designated as follows:

(A) Combat Units.

(B) Tactical Support.

(C) Force-Related Training/Special Activities.

(D) Depot Maintenance.

(E) JCS Exercises.

(2) The budget activity groups (known as "subactivities") within the Operating Forces budget activity of the annual Operation and Maintenance, Navy, appropriation that are designated as follows:

(A) Mission and Other Flight Operations.

(B) Mission and Other Ship Operations.

(C) Fleet Air Training.

(D) Ship Operational Support and Training.

(E) Aircraft Depot Maintenance.

(F) Ship Depot Maintenance.

(3) The budget activity groups (known as "subactivities"), or other activity, within the Operating Forces budget activity of the annual Operation and Maintenance, Air Force, appropriation that are designated or otherwise identified as follows:

(A) Primary Combat Forces.

(B) Primary Combat Weapons.

(C) Global and Early Warning.

(D) Air Operations Training.
(E) Depot Maintenance.
(F) JCS Exercises.

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Subtitle H—Other Matters

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SEC. 375. OPERATION OF MILITARY EXCHANGE AND COMMISSARY STORE AT NAVAL AIR STATION FORT WORTH, JOINT RESERVE CENTER, CARSWELL FIELD.

The Secretary of Defense shall provide for the operation by the Army and Air Force Exchange Service¿, until December 31, 1995, of any military exchange and commissary store located at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.

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TITLE V—MILITARY PERSONNEL POLICY

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Subtitle E—Other Matters

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SEC. 556. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) * * *

¿(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

¿"§ 6975. Athletics program: athletic director; nonappropriated fund account

¿"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

¿"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for that program.".

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

¿"6975. Athletics program: athletic director; nonappropriated fund account.".

¿(3) The account referred to in subsection (b) of section 6975 of title 10, United States Code, as added by paragraph (1), shall be

established not later than the effective date set forth in subsection (e).

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TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

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Subtitle B—Assistance Activities

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¿SEC. 1413. HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES.

¿(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a program for humanitarian purposes to provide assistance to other nations in the detection and clearance of landmines. Such assistance shall be provided through instruction, education, training, and advising of personnel of those nations in the various procedures that have been determined effective for detecting and clearing landmines.

¿(b) FORMS OF ASSISTANCE.—The Secretary may provide assistance under subsection (a) by—

¿(1) providing Department of Defense personnel to conduct the instruction, education, or training or to furnish advice; or

¿(2) providing financial assistance or in-kind assistance in support of such instruction, education, or training.

¿(c) LIMITATION ON UNITED STATES MILITARY PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

¿(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

¿(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

¿(d) USE OF FUNDS.—Of the amount authorized to be appropriated by section 301 for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department of Defense, not more than $20,000,000 shall be available for the program under subsection (a). Such amount may be used—

¿(1) for activities to support the clearing of landmines for humanitarian purposes, including activities relating to the furnishing of education, training, and technical assistance;

¿(2) for the provision of equipment and technology by transfer or lease to a foreign government that is participating in a landmine clearing program under this section; and

¿(3) for contributions to nongovernmental organizations that have experience in the clearing of landmines to support activities described in subsection (a).

¿(e) NOTICE TO CONGRESS.—The Secretary of Defense shall provide notice to Congress of any activity carried out under this section.

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TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction	Anniston Army Depot, Alabama	$5,000,000
	Pine Bluff Arsenal, Arkansas	¿$3,000,000
		$115,000,000
	Tooele Army Depot, Utah	$4,000,000
	Umatilla Army Depot, Oregon	¿$12,000,000
		$186,000,000
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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

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PART B—B–2 AIRCRAFT PROGRAM

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¿SEC. 112. LIMITATION ON ANNUAL PRODUCTION OF B–2 BOMBER FOR FISCAL YEARS AFTER FISCAL YEAR 1990

¿(a) REQUIRED ANNUAL CERTIFICATION.—Funds appropriated to the Department of Defense for a fiscal year after fiscal year 1990 may not be obligated or expended for procurement for new production aircraft under the B–2 bomber program unless and until the

Secretary of Defense submits to the congressional defense committees the certification referred to in subsection (b) with respect to that fiscal year.

¿(b) CERTIFICATION.—A certification referred to in subsection (a) for any fiscal year is a certification submitted by the Secretary of Defense to the congressional defense committees after the beginning of the fiscal year which is in writing and in unclassified form and in which the Secretary certifies each of the following:

¿(1) That the performance milestones for the B–2 aircraft for the previous fiscal year for both developmental test and evaluation and operational test and evaluation (as contained in the latest full performance matrix for the B–2 aircraft program established under section 232(a) of Public Law 100–456 and section 121 of Public Law 100–180) have been met.

¿(2) That the B–2 aircraft has a high probability of being able to perform its intended missions.

¿(3) That any proposed modification to the performance matrix referred to in paragraph (1) will be provided in writing in advance to the congressional defense committees.

¿(4) That the cost reduction initiatives established for the B–2 program can be achieved (such certification to be submitted together with details of the savings to be realized).

¿(5) That the quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B–2 program meet or exceed accepted United States Government standards.

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PART H—CHEMICAL MUNITIONS

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SEC. 173. CHEMICAL DEMILITARIZATION CRYOFRACTURE PROGRAM

¿(a) PROGRAM.—The Secretary of Defense, to the extent funds are available for the purpose, shall proceed as expeditiously as possible with the project to develop an operational cryofracture facility at the Tooele Army Depot, Utah.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS

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PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. BALANCED TECHNOLOGY INITIATIVE

(a) * * *

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¿(e) ANNUAL REPORT.—Not later than March 15 of each year, the Secretary of Defense shall submit to the congressional defense com-

mittees a report on the Balanced Technology Initiative and related matters. Each such report shall include the following:

¿(1) A current assessment of the extent to which advanced technologies can be used to exploit potential vulnerabilities of hostile threats to the national security of the United States.

¿(2) Identification of each program, project, and activity being pursued under the Balanced Technology Initiative and, with respect to each such program, project, and activity, the amount made available pursuant to this section and the source of such amount.

¿(3) For each program, project, and activity for which funds are made available pursuant to this section, a five-year funding plan that (A) provides for the allocation of sufficient resources to maintain adequate progress in research and development under such program, project, or activity, and (B) specifies the major programmatic and technical milestones and the schedule for achieving those milestones.

¿(4) The status of each program, project, and activity being pursued under the Balanced Technology Initiative.

¿(5) Identification of other on-going or potential research and development programs, projects, and activities not currently provided for under this section that should be considered for inclusion under the Balanced Technology Initiative in order to improve conventional defense capabilities.

¿(6) Identification of the most critical technologies for the successful development of existing or potential Balanced Technology Initiative programs, projects, and activities and an assessment of the current status of those technologies.

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TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

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SEC. 1208. TRANSFER OF EXCESS PERSONAL PROPERTY

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by such agencies in ¿counter-drug activities *law enforcement activities, including counter-drug activities*; and

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TITLE XIII—MILITARY APPELLATE PROCEDURES

SEC. 1301. COURT OF MILITARY APPEALS

(a) * * *

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¿(i) TERMINATION OF AUTHORITY RELATING TO SERVICE OF ARTICLE III JUDGES AFTER 5 YEARS.—The authority of the Chief Justice of the United States under section 942(f) of title 10, United States

Code, as enacted by subsection (c), shall terminate on September 30, 1995.

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¿TITLE XV—MILITARY CHILD CARE

¿SEC. 1501. SHORT TITLE; DEFINITIONS

¿(a) SHORT TITLE.—This title may be cited as the "Military Child Care Act of 1989".

¿(b) DEFINITIONS.—For purposes of this title:

¿(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of the commander of a military installation) at which child care services are provided for members of the Armed Forces or any other facility at which such child care services are provided that is operated by the Secretary of a military department.

¿(2) The term "family home day care" means home-based child care services that are provided for members of the Armed Forces by an individual who (A) is certified by the Secretary of the military department concerned as qualified to provide those services, and (B) provides those services on a regular basis for compensation.

¿(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated funds or non-appropriated funds).

¿(4) The term "child care fee receipts" means those non-appropriated funds that are derived from fees paid by members of the Armed Forces for child care services provided at military child development centers.

¿SEC. 1502. FUNDING FOR MILITARY CHILD CARE FOR FISCAL YEAR 1990

¿(a) FISCAL YEAR 1990 FUNDING.—(1) It is the policy of Congress that the amount of appropriated funds available during fiscal year 1990 for operating expenses for military child development centers shall not be less than the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year. Of the amount authorized to be appropriated for the Department of Defense for fiscal year 1990, $102,000,000 shall be available for operating expenses for military child development centers.

¿(2) In addition to the amount referred to in paragraph (1), $26,000,000 shall be available for child care and child-related services of the Department other than military child development centers.

¿(3) In using the funds referred to in paragraph (1), the Secretary shall give priority to—

¿(A) increasing the number of child care employees who are directly involved in providing child care for members of the Armed Forces; and

¿(B) expanding the availability of child care for members of the Armed Forces.

¿(b) FUNDS DERIVED FROM PARENT FEES TO BE USED FOR EMPLOYEE COMPENSATION AND OTHER CHILD CARE SERVICES.—(1) Except as provided in paragraph (2), child care fee receipts may be used during fiscal year 1990 only for compensation of child care employees who are directly involved in providing child care.

¿(2) If the Secretary of Defense determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Secretary may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

¿(A) first, for the purchase of consumable or disposable items for military child development centers; and

¿(B) if the requirements of such centers for consumable or disposable items for fiscal year 1990 have been met, for other expenses of those centers.

¿(c) REPORT.—(1) Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on how the Secretary intends to use the funds referred to in subsection (a), including how the Secretary intends to achieve the priorities specified in paragraph (3) of that subsection.

¿(2) If at the time such report is submitted the Secretary proposes to use the authority provided by subsection (b)(2), the Secretary shall include in the report under paragraph (1) a description of the use proposed to be made of that authority and a statement of the reasons why the Secretary determined that compliance with the limitation in subsection (b)(1) would result in an uneconomical and inefficient use of child care fee receipts, together with supporting cost information and other information justifying the determination.

¿(3) If the Secretary uses such authority after December 31, 1989, the Secretary shall promptly inform the committees of the use of the authority and of the reasons for its use.

¿SEC. 1503. CHILD CARE EMPLOYEES

¿(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall establish, and prescribe regulations to implement, a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

¿(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee (except that, in the case of a child care employee hired before the date on which the training program is established, the Secretary shall require that the employee complete the program not later than six months after that date).

¿(3) The training program established under this subsection shall cover, at a minimum, training in the following:

¿(A) Early childhood development.

¿(B) Activities and disciplinary techniques appropriate to children of different ages.

¿(C) Child abuse prevention and detection.

¿(D) Cardiopulmonary resuscitation and other emergency medical procedures.

¿(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

¿(2) The duties of such employees shall include the following:

¿(A) Special teaching activities at the center.

¿(B) Daily oversight and instruction of other child care employees at the center.

¿(C) Daily assistance in the preparation of lesson plans.

¿(D) Assistance in the center's child abuse prevention and detection program.

¿(E) Advising the director of the center on the performance of other child care employees.

¿(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

¿(c) PROGRAM TO TEST COMPETITIVE RATES OF PAY.—(1) For the purpose of improving the capability of the Department of Defense to provide military child development centers with a qualified and stable civilian workforce, the Secretary of Defense shall conduct a program as provided in this subsection to increase the compensation of child care employees. The Secretary shall begin the program not later than six months after the date of the enactment of this Act. The program shall be in effect for a period of at least two years.

¿(2) The program shall apply to all child care employees who—

¿(A) are directly involved in providing child care; and

¿(B) are paid from nonappropriated funds.

¿(3) Under the program, child care employees at a military installation who are described in paragraph (2) shall be paid—

¿(A) in the case of entry-level employees, at rates of pay competitive with the rates of pay paid to other entry-level employees at that installation who are drawn from the same labor pool; and

¿(B) in the case of other employees, at rates of pay substantially equivalent to the rates of pay paid to other employees at that installation with similar training, seniority, and experience.

¿(d) EMPLOYMENT PREFERENCE TEST PROGRAM FOR MILITARY SPOUSES.—(1) The Secretary of Defense shall conduct a test program under which qualified spouses of members of the Armed Forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position. A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 806 of the Military Family Act of 1985 (10 U.S.C. 113 note), in the same geographical area as the military child development center.

¿(2) The test program under this subsection shall run concurrently with the program under subsection (c).

¿(e) REPORT ON COMPENSATION AND SPOUSE EMPLOYMENT PREFERENCE PROGRAMS.—Not later than March 1, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the programs under subsections (c) and (d). The report shall include the findings of the Secretary concerning the effect of each of the programs on the quality of child care provided in military child development centers and the effect of the spouse employment preference program on employee turnover at such centers.

¿(f) ADDITIONAL CHILD CARE POSITIONS.—(1) The Secretary of Defense shall make available for child care programs of the Department of Defense, not later than September 30, 1990, at least 1,000 competitive service positions in addition to the number of competitive service positions in such programs as of September 30, 1989. During fiscal year 1991, the Secretary shall make available to child care programs of the Department additional competitive service positions so that the number of competitive service positions in such programs as of September 30, 1991, is at least 3,700 greater than the number of competitive service positions in such programs as of September 30, 1989.

¿(2) The Secretary may waive the increase otherwise required by the second sentence of paragraph (1) to the extent that the Secretary determines that such increase is not executable. If the Secretary issues such a waiver, the Secretary shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report on the waiver. Any such report shall specify the number of such positions waived and the reasons for the waiver.

¿(3) The additional positions provided for in paragraph (1), and the workyears associated with those positions, that are used outside the United States shall not be counted for purpose of applying any limitation on the total number of positions or workyears, respectively, available to the Department of Defense outside the United States (or any limitation on the availability of appropriated funds for such positions or workyears for any fiscal year).

¿(g) COMPETITIVE SERVICE POSITION DEFINED.—For purposes of this section, the term "competitive service position" means a position in the competitive service, as defined in section 2102(a)(1) of title 5, United States Code.

¿SEC. 1504. PARENT FEES

¿The Secretary of Defense shall prescribe regulations establishing fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that, in the case of children who attend the centers on a regular basis, the fees shall be based on family income.

¿SEC. 1505. CHILD ABUSE PREVENTION AND SAFETY AT FACILITIES

¿(a) CHILD ABUSE TASK FORCE.—The Secretary of Defense shall establish and maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall

provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

¿(b) NATIONAL HOTLINE.—(1) The Secretary of Defense shall establish and maintain a national telephone number for persons to use to report suspected child abuse or safety violations at a military child development center or family home day care site. The Secretary shall ensure that such reports may be made anonymously if so desired by the person making the report. The Secretary shall establish procedures for following up on complaints and information received over that number.

¿(2) The Secretary shall establish such national telephone number not later than 90 days after the date of the enactment of this Act and shall publicize the existence of the number.

¿(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that, in a case of allegations of child abuse at a military child development center or family home day care site, the commander of the military installation or the head of the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is available.

¿(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe regulations on safety and operating procedures at military child development centers. Those regulations shall apply uniformly among the military departments.

¿(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected not less often than four times a year. Each such inspection shall be unannounced. At least one inspection a year shall be carried out by a representative of the installation served by the center, and one inspection a year shall be carried out by a representative of the major command under which that installation operates.

¿(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a safety, health, or child welfare law or regulation (discovered at an inspection or otherwise) at a military child development center shall be remedied immediately.

¿(2) In the case of a violation that is not life threatening, the commander of the major command under which the installation concerned operates may waive the requirement that the violation be remedied immediately for a period of up to 90 days beginning on the date of the discovery of the violation. If the violation is not remedied as of the end of that 90-day period, the military child development center shall be closed until the violation is remedied. The Secretary of the military department concerned may waive the preceding sentence and authorize the center to remain open in a case in which the violation cannot reasonably be remedied within that 90-day period or in which major facility reconstruction is required.

¿(3) If a military child development center is closed under paragraph (2), the Secretary of the military department concerned shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report notifying those committees of the closing. The report shall include—

¿(A) notice of the violation that resulted in the closing and the cost of remedying the violation; and

¿(B) a statement of the reasons why the violation has not been remedied as of the time of the report.

¿(g) REPORT ON COOPERATION WITH DEPARTMENT OF JUSTICE.—(1) The Secretary of Defense, in consultation with the Attorney General, shall study matters relating to military child care that are of concern to the Department of Justice. The matters studied shall include the following:

¿(A) Improving communication between the Department of Defense and the Department of Justice in investigations of child abuse in military programs and in the coordination of the conduct of such investigations.

¿(B) Eliminating overlapping responsibilities between the two departments.

¿(C) Making better use of government and non-government experts in child abuse investigations and prosecutions.

¿(D) Improving communication with affected families by the Department of Defense, the Department of Justice, and appropriate State and local agencies.

¿(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study required by paragraph (1). The report shall include recommendations on methods for improving the matters studied.

¿(3) Not later than nine months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report evaluating the findings in the report submitted under paragraph (2).

¿SEC. 1506. PARENT PARTNERSHIPS WITH CHILD DEVELOPMENT CENTERS

¿(a) PARENT BOARDS.—The Secretary of Defense shall require that there be established at each military child development center a board of parents, to be composed of parents of children attending the center. The board shall meet periodically with staff of the center and the commander of the installation served by the center for the purpose of discussing problems and concerns. The board, together with the staff of the center, shall be responsible for coordinating the parent participation program described in subsection (b).

¿(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center. As part of such program, the Secretary of Defense may establish fees for attendance of children at such a center, in the case of parents who participate in the parent participation program at that center, at rates lower than the rates that otherwise apply.

¿SEC. 1507. REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE

¿(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense during fiscal years 1991 through 1995.

¿(b) PLAN FOR MEETING DEMAND.—The report shall include—

¿(1) a plan for meeting the expected child care demand identified in the report; and

¿(2) an estimate of the cost of implementing that plan.

¿(c) MONITORING OF FAMILY DAY CARE PROVIDERS.—The report shall also include a description of methods for monitoring family home day care programs of the military departments.

¿SEC. 1508. SUBSIDIES FOR FAMILY HOME DAY CARE

¿The Secretary of Defense may use appropriated funds available for military child care purposes to provide assistance to family home day care providers so that family home day care services can be provided to members of the Armed Forces at a cost comparable to the cost of services provided by military child development centers. The Secretary shall prescribe regulations for the provision of such assistance.

¿SEC. 1509. EARLY CHILDHOOD EDUCATION DEMONSTRATION PROGRAM

¿(a) DEMONSTRATION PROGRAM FOR ACCREDITED CENTERS.—(1) The Secretary of Defense shall carry out a program to demonstrate the effect on the development of preschool children of requiring that military child development centers meet standards of operation necessary for accreditation by an appropriate national early childhood programs accrediting body. To carry out such demonstration program, the Secretary shall ensure that not later than June 1, 1991, at least 50 military child development centers are accredited by such an appropriate national early childhood accrediting body.

¿(2) Each military child development center so accredited shall be designated as an early childhood education demonstration project and shall serve as a program model for other military child development centers and family home day care providers at military installations.

¿(b) PLAN FOR IMPLEMENTATION.—Not later than April 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan for carrying out the requirements of subsection (a).

¿(c) EVALUATION.—The Secretary shall obtain an independent evaluation of the demonstration program carried out under subsection (a) to determine the extent to which the imposition of a requirement that military child development centers meet accreditation standards effectively promotes the development of preschool children of members of the Armed Forces. The Secretary shall report the results of the evaluation to Congress, together with such comments and recommendations as the Secretary considers appropriate, not later than July 15, 1992.

¿SEC. 1510. DEADLINE FOR REGULATIONS

¿Regulations required to be prescribed by this title shall be prescribed not later than 90 days after the date of the enactment of this Act.

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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Subtitle F—Strategic Programs

SEC. 151. B–2 BOMBER AIRCRAFT PROGRAM.

(a) * * *

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¿(c) LIMITATION ON NUMBER OF B–2 AIRCRAFT.—A total of not more than 20 deployable B–2 bomber aircraft plus one test aircraft may be procured.

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle D—Defense Business Operations Fund

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¿SEC. 342. CAPITAL ASSET SUBACCOUNT.

¿(a) USE OF SUBACCOUNT FOR CAPITAL ASSETS DEPRECIATION CHARGES.—Charges for goods and services provided through the Defense Business Operations Fund shall include amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles. Amounts charged for depreciation shall be credited to a separate capital asset subaccount established within the Fund. The subaccount shall be available only for the payment of outlays for capital assets for the Fund.

¿(b) AWARD OF CONTRACTS.—The Secretary of Defense may award contracts for capital assets of the Fund in advance of the availability of funds in the subaccount, to the extent provided for in appropriations Acts.

¿(c) ANNUAL REPORT.—The Secretary of Defense shall submit to the congressional defense committees each year, at the same time that the President submits the budget to the Congress under section 1105 of title 31, United States Code, a report that specifies—

¿(1) the opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted;

¿(2) the estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted;

¿(3) the estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted;

¿(4) the estimated balance of the subaccount at the end of the fiscal year in which the report is submitted; and

¿(5) a statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will

be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

¿(d) AUTHORIZATION.—There is hereby authorized to be appropriated to the Fund subaccount for fiscal years 1993 and 1994 such sums as may be necessary to pay, during fiscal year 1993 and until April 15, 1994, outlays for capital assets in excess of the amount otherwise available in the subaccount.

¿(e) DEFINITIONS.—For purposes of this section:

(1) The term "capital assets" means the following capital assets that have a development or acquisition cost of not less than $15,000:

¿(A) Minor construction projects financed by the Fund pursuant to section 2805(c)(1) of title 10, United States Code.

¿(B) Automatic data processing equipment, software, other equipment, and other capital improvements.

¿(2) The term "Fund" means the Defense Business Operations Fund.

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SEC. 386. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) * * *

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(c) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under subsection (b) for a fiscal year if—

(1) at least ¿30 *20* percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency in that fiscal year are military dependent students ¿counted under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238) ;

* * * * * * *

(d) ADJUSTMENT PAYMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—Subject to subsection (g), to assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall transfer to the Secretary of Education funds to make payments to local educational agencies that are entitled to receive ¿under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238), payments adjusted in accordance with subsection (e) of such section by reason of conditions described in subparagraphs (A) through (C) of paragraph (1) of such subsection that result from *payments under section 8003(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(e)) as a result of* closures and realignments of military installations.

(e) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, ¿and 1995 *1995, and 1996*, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a re-

port on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

(2) Each report shall contain the following:

(A) * * *

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(C) The amounts paid to the local educational agencies during that year under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 236 et seq.), *title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.),* or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

(i) the installations to be closed or realigned;

(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency ¿under subsections (a) and (b) of section 3 of such Act (20 U.S.C. 238) .

* * * * * * *

(h) DEFINITIONS.—In this section:

(1) The term "local educational agency" has the meaning given that term in ¿section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)) *section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9))* .

* * * * * * *

¿(3) The term "State" has the meaning given that term in section 3(d)(3)(D)(i) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238(d)(3)(D)(i)).

(3) The term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

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TITLE X—GENERAL PROVISIONS

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Subtitle E—Counter-Drug Activities

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¿SEC. 1045. PILOT OUTREACH PROGRAM TO REDUCE DEMAND FOR ILLEGAL DRUGS.

¿(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot outreach program to reduce the demand for illegal drugs. The program shall include outreach activities by the active and reserve components of the Armed Forces and shall focus primarily on youths in general and inner-city youths in particular.

¿(b) PAYMENT OF TRAVEL AND LIVING EXPENSES.—The Secretary of Defense may provide travel and living allowances to members of the Armed Forces who participate in the pilot outreach program to permit such members to carry out demand reduction activities in areas beyond the vicinity of military installations and National Guard facilities.

¿(c) FUNDING.—Funds available to the Department of Defense for drug interdiction and counter-drug activities may be used for carrying out the pilot outreach program described in subsection (a).

¿(d) DURATION OF PROGRAM.—The pilot outreach program described in subsection (a) shall be conducted for a test period ending three years after the date of the enactment of this Act.

¿(e) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress a report that assesses the effectiveness of the pilot outreach program and includes the recommendations of the Secretary regarding the continuation of the program.

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Subtitle H—Other Matters

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SEC. 1081. CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.

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

¿(1) Many of the skills, capabilities, and resources that the Armed Forces have developed to meet military requirements can assist in meeting the civilian domestic needs of the United States.

¿(2) Members of the Armed Forces have the training, education, and experience to serve as role models for United States youth.

¿(3) As a result of the reductions in the Armed Forces resulting from the ending of the Cold War, the Armed Forces will have fewer overseas deployments and lower operating tempos, and there will be a much greater opportunity than in the past for the Armed Forces to assist civilian efforts to address critical domestic problems.

¿(4) The United States has significant domestic needs in areas such as health care, nutrition, education, housing, and infrastructure that cannot be met by current and anticipated governmental and private sector programs.

¿(5) There are significant opportunities for the resources of the Armed Forces, which are maintained for national security purposes, to be applied in cooperative efforts with civilian officials to address these vital domestic needs.

¿(6) Civil-military cooperative efforts can be undertaken in a manner that is consistent with the military mission and does not compete with the private sector.

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Subtitle I—Youth Service Opportunities

¿SEC. 1091. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.

¿(a) PROGRAM AUTHORITY.—During fiscal years 1993 through 1995, the Secretary of Defense, acting through the Chief of the National Guard Bureau, may conduct a pilot program to be known as the "National Guard Civilian Youth Opportunities Program".

¿(b) PURPOSE.—The purpose of the pilot program is to provide a basis for determining—

¿(1) whether the life skills and employment potential of civilian youth who cease to attend secondary school before graduating can be significantly improved through military-based training, including supervised work experience in community service and conservation projects, provided by the National Guard; and

¿(2) whether it is feasible and cost effective for the National Guard to provide military-based training to such youth for the purpose of achieving such improvements.

¿(c) CONDUCT OF PROGRAM IN 10 NATIONAL GUARD JURISDICTIONS.—The Secretary of Defense may provide for the conduct of the pilot program in any 10 of the States.

¿(d) PROGRAM AGREEMENTS.—(1) To carry out the pilot program in a State, the Secretary of Defense shall enter into an agreement with the Governor of the State or, in the case of the District of Columbia, with the commanding general of the District of Columbia National Guard.

¿(2) Each agreement under the pilot program shall provide for the Governor or, in the case of the District of Columbia, the commanding general to establish, organize, and administer a National Guard civilian youth opportunities program in the State.

¿(3) The agreement may provide for the Secretary to reimburse the State for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the National Guard civilian youth opportunities program.

¿(e) PERSONS ELIGIBLE TO PARTICIPATE IN PROGRAM.—(1) A school dropout from secondary school shall be eligible to participate in a National Guard civilian youth opportunities program conducted under the pilot program.

¿(2) The Secretary shall prescribe the standards and procedures for selecting participants for a National Guard civilian youth opportunities program from among school dropouts eligible to participate in the program.

¿(f) AUTHORIZED BENEFITS FOR PARTICIPANTS.—(1) To the extent provided in an agreement entered into in accordance with subsection (d) and subject to the approval of the Secretary, a person selected for training in a National Guard civilian youth opportunities program conducted under the pilot program may receive the following benefits in connection with that training:

¿(A) Allowances for travel expenses, personal expenses, and other expenses.

¿(B) Quarters.

¿(C) Subsistence.

¿(D) Transportation.

¿(E) Equipment.

¿(F) Clothing.

¿(G) Recreational services and supplies.

¿(H) Other services.

¿(I) Subject to paragraph (2), a temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

¿(2) In the case of a person selected for training in a National Guard civilian youth opportunities program conducted under the pilot program who afterwards becomes a member of the Civilian Community Corps under subtitle E of title I of the National and Community Service Act of 1990 (as added by section 1092(a)), the person may not receive a temporary stipend under paragraph (1)(I) while the person is a member of that Corps. The person may receive the temporary stipend after completing service in the Corps unless the person elects to receive benefits provided under subsection (f) or (g) of section 158 of such Act.

¿(g) PROGRAM PERSONNEL.—(1) Personnel of the National Guard of a State in which a National Guard civilian youth opportunities program is conducted under the pilot program may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for that program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of title 32, United States Code, for not longer than the period of the program.

¿(2) For fiscal year 1993, personnel so serving may not be counted for the purposes of—

¿(A) any provision of law limiting the number of personnel that may be serving on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components; or

¿(B) section 524 of title 10, United States Code, relating to the number of reserve component officers who may be on active duty or full-time National Guard duty in certain grades.

¿(3) A Governor participating in the pilot program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program) may procure by contract the temporary full time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out a National Guard civilian youth opportunities program under the pilot program.

¿(4) Civilian employees of the National Guard performing services for such a program and contractor personnel performing such services may be required, when appropriate to achieve a program objective, to be members of the National Guard and to wear the military uniform.

¿(h) EQUIPMENT AND FACILITIES.—(1) Equipment and facilities of the National Guard, including military property of the United

States issued to the National Guard, may be used in carrying out the pilot program.

¿(2) Activities under the pilot program shall be considered non-combat activities of the National Guard for purposes of section 710 of title 32, United States Code.

¿(i) STATUS OF PARTICIPANTS.—(1) A person receiving training under the pilot program shall be considered an employee of the United States for the purposes of the following provisions of law:

¿(A) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation of Federal employees for work injuries).

¿(B) Section 1346(b) and chapter 171 of title 28, United States Code, and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

¿(2) In the application of the provisions of law referred to in paragraph (1)(A) to a person referred to in paragraph (1)—

¿(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a program agreement referred to in subsection (d), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;

¿(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS–2 of the General Schedule under section 5332 of title 5, United States Code; and

¿(C) the entitlement of a person to receive compensation for a disability shall begin on the day following the date on which the person's participation in the pilot program is terminated.

¿(3) A person referred to in paragraph (1) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

¿(j) SUPPLEMENTAL RESOURCES.—(1) To carry out a National Guard civilian youth opportunities program conducted under the pilot program, the Governor of a State or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard may supplement any funding made available pursuant to subsection (m) out of other resources (including gifts) available to the Governor or the commanding general.

¿(2) The provision of funds authorized to be appropriated for the pilot program shall not preclude a Governor participating in the pilot program, or the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program), from accepting, using, and disposing of gifts or donations of money, other property, or services for the pilot program.

¿(k) REPORT.—(1) Within 90 days after the end of the one-year period beginning on the first day of the pilot program, the Secretary shall submit to the congressional defense committees a report on the design, conduct, and effectiveness of the pilot program during that one-year period. The report shall include an assessment of the matters set forth in paragraphs (1) and (2) of subsection (b).

¿(2) In preparing the report required by paragraph (1), the Secretary shall coordinate with the Governor of each State in which a National Guard civilian youth opportunities program is carried out under the pilot program and, if such a program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

¿(l) DEFINITIONS.—In this section:

¿(1) The term "pilot program" means the National Guard Civilian Youth Opportunities Program authorized to be conducted under subsection (a).

¿(2) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

¿(3) The term "school dropout" has the meaning established for the term by the Secretary of Education pursuant to section 6201(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3271(a)).

¿(4) The term "full-time National Guard duty" has the meaning given that term in section 101 of title 32, United States Code.

¿(m) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301, $50,000,000 shall be available to carry out the pilot program for fiscal year 1993.

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¿SEC. 1093. COORDINATION OF PROGRAMS.

¿(a) COORDINATED ADMINISTRATION.—To the maximum extent practicable, the Chief of the National Guard Bureau, the Board of Directors and Chief Executive Officer of the Corporation for National and Community Service, and the Director of the Civilian Community Corps shall coordinate the National Guard Youth Opportunities Program established pursuant to section 1091 and the Civilian Community Corps Demonstration Program established pursuant to the authorization contained in section 152 of the National and Community Service Act of 1990 (as added by section 1092(a)).

¿(b) OBJECTIVES.—The officials referred to in subsection (a) shall ensure that—

¿(1) the programs referred to in subsection (a) are conducted in such a manner in relationship to each other that the public benefit of those programs is maximized;

¿(2) to the maximum extent appropriate to meet the needs of program participants, persons who complete participation in the National Guard Youth Opportunities Program and are eligible and apply to participate in the Civilian Community Corps under the Civilian Community Corps Demonstration Program are accepted for participation in that Program; and

¿(3) the programs referred to in subsection (a) are conducted simultaneously in competition with each other in the same immediate area of the United States only when the population of eligible participants in that area is sufficient to justify the simultaneous conduct of such programs in that area.

* * * * * * *

TITLE XI—ARMY GUARD COMBAT REFORM INITIATIVE

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Army National Guard Combat Readiness Reform Act of 1992''.

Subtitle A—Deployability Enhancements

SEC. 1111. ¿MINIMUM PERCENTAGE OF PRIOR ACTIVE-DUTY PERSONNEL.

¿(a) ESTABLISHMENT OF MINIMUM PERCENTAGE.—The Secretary of the Army shall have an objective of increasing the percentage of qualified prior active-duty personnel in the Army National Guard to 65 percent, in the case of officers, and to 50 percent, in the case of enlisted members, by September 30, 1997.

¿(b) INTERIM ACCESSION PERCENTAGES.—The Secretary shall prescribe regulations establishing for each of fiscal years 1993 through 1997 an accession percentage for officers, and a separate accession percentage for enlisted members, for prior active-duty personnel so as to facilitate compliance with the objectives stated in subsection (a).

(a) ADDITIONAL PRIOR ACTIVE DUTY OFFICERS.—The Secretary of the Army shall increase the number of qualified prior active-duty officers in the Army National Guard by providing a program that permits the separation of officers on active duty with at least two, but less than three, years of active service upon condition that the officer is accepted for appointment in the Army National Guard. The Secretary shall have a goal of having not fewer than 150 officers become members of the Army National Guard each year under this section.

(b) ADDITIONAL PRIOR ACTIVE DUTY ENLISTED MEMBERS.—The Secretary of the Army shall increase the number of qualified prior active-duty enlisted members in the Army National Guard through the use of enlistments as described in section 8020 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139). The Secretary shall enlist not fewer than 1,000 new enlisted members each year under enlistments described in that section.

(c) QUALIFIED PRIOR ACTIVE-DUTY PERSONNEL.—For purposes of this section, qualified prior active-duty personnel are members of the Army National Guard with not less than two years of active duty.

¿(d) DEADLINE FOR REGULATIONS.—The regulations required by subsection (a) shall be prescribed not later than March 15, 1993. The Secretary shall submit those regulations to the Committees on Armed Services of the Senate and House of Representatives not later than April 1, 1993.

¿(e) LIST OF CERTAIN SEPARATED OFFICERS.—On a semiannual basis, the Secretary of the Army shall furnish to the Chief of the National Guard Bureau a list containing the name, home of record, and last-known mailing address of each officer of the Army who during the previous six months was honorably separated from active duty in the grade of major or below.

SEC. 1112. SERVICE IN SELECTED RESERVE IN LIEU OF ACTIVE-DUTY SERVICE.

(a) * * *

(b) ROTC GRADUATES.—The Secretary of the Army shall provide a program under which graduates of the Reserve Officers' Training Corps program may perform their minimum period of obligated service by a combination of (A) two years of active duty, and (B) such additional period of service as is necessary to complete the remainder of such obligation, to be served in the ¿National Guard *Selected Reserve*.

SEC. 1113. REVIEW OF OFFICER PROMOTIONS BY COMMANDER OF ASSOCIATED ACTIVE DUTY UNIT.

(a) REVIEW.—Whenever an officer in an Army ¿National Guard *Selected Reserve* unit as defined in subsection (b) is recommended for a unit vacancy promotion to a grade above first lieutenant, the recommended promotion shall be reviewed by the commander of the active duty unit associated with the ¿National Guard *Selected Reserve* unit of that officer or another active-duty officer designated by the Secretary of the Army. The commander or other active-duty officer designated by the Secretary of the Army shall provide to the promoting authority, through the promotion board convened by the promotion authority to consider unit vacancy promotion candidates, before the promotion is made, a recommendation of concurrence or nonconcurrence in the promotion. The recommendation shall be provided to the promoting authority within 60 days after receipt of notice of the recommended promotion.

¿(b) IMPLEMENTATION.—Subsection (a) shall take effect—

¿(1) on April 1, 1993, for officers in Army National Guard units that on that date are designated as round-out/round-up units;

¿(2) on October 1, 1993, for officers in other units of the Army National Guard in the Selected Reserve of the Ready Reserve that are designated as early deploying units; and

¿(3) on April 1, 1994, for officers in all other Army National Guard combat units.

(b) COVERAGE OF SELECTED RESERVE COMBAT AND EARLY DEPLOYING UNITS.—(1) Subsection (a) applies to officers in all units of the Selected Reserve that are designated as combat units or that are designated for deployment within 75 days of mobilization.

(2) Subsection (a) shall take effect with respect to officers of the Army Reserve, and with respect to officers of the Army National Guard in units not subject to subsection (a) as of the the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996, at the end of the 90-day period beginning on such date of enactment.

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SEC. 1115. INITIAL ENTRY TRAINING AND NONDEPLOYABLE PERSONNEL ACCOUNT.

(a) ESTABLISHMENT OF PERSONNEL ACCOUNT.—The Secretary of the Army shall establish a personnel accounting category for members of the Army *National Guard˜ Selected Reserve* to be used for categorizing members of the ¿National Guard *Selected Reserve* who have not completed the minimum training required for deployment or who are otherwise not available for deployment. The account shall be designed so that it is compatible with the decentralized personnel systems of the Army Guard and Reserve. The ac-

count shall be used for the reporting of personnel readiness and may not be used as a factor in establishing the level of Army Guard and Reserve force structure.

(b) USE OF ACCOUNT.—Until a member of the Army ¿National Guard *Selected Reserve* has completed the minimum training necessary for deployment, the member may not be assigned to fill a position in a ¿National Guard *Selected Reserve* unit but shall be carried in the account established under subsection (a).

(c) TIME FOR QUALIFICATION FOR DEPLOYMENT.—(1) If at the end of 24 months after ¿a member of the Army National Guard enters the National Guard *a member of the Army Selected Reserve enters the Army Selected Reserve*, the member has not completed the minimum training required for deployment, the member shall be discharged ¿from the Army National Guard .

(2) The Secretary of the Army may waive the requirement in paragraph (1) in the case of health care providers and in other cases determined necessary. The authority to make such a waiver may not be delegated.

SEC. 1116. MINIMUM PHYSICAL DEPLOYABILITY STANDARDS.

The Secretary of the Army shall transfer the personnel classification of a member of the Army ¿National Guard *Selected Reserve* from the ¿National Guard *Selected Reserve* unit of the member to the personnel account established pursuant to section 1115 if the member does not meet minimum physical profile standards required for deployment. Any such transfer shall be made not later than 90 days after the date on which the determination that the member does not meet such standards is made.

¿SEC. 1117. MEDICAL ASSESSMENTS.

¿The Secretary of the Army shall require that—

¿(1) each member of the Army National Guard undergo a medical and dental screening on an annual basis; and

¿(2) each member of the Army National Guard over the age of 40 undergo a full physical examination not less often than every two years.

¿SEC. 1118. DENTAL READINESS OF MEMBERS OF EARLY DEPLOYING UNITS.

¿(a) DEVELOPMENT OF PLAN.—The Secretary of the Army shall develop a plan to ensure that units of the Army National Guard scheduled for early deployment in the event of a mobilization (as determined by the Secretary) are dentally ready (as defined in regulations of the Secretary) for deployment.

¿(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such plan not later than February 15, 1993. The Secretary shall include in the report any legislative proposals that the Secretary considers necessary in order to implement the plan.

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SEC. 1120. USE OF COMBAT SIMULATORS.

The Secretary of the Army shall expand the use of simulations, simulators, and advanced training devices and technologies in

order to increase training opportunities for members and units of the Army National Guard *and the Army Reserve.*

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TITLE XV—NONPROLIFERATION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Weapons of Mass Destruction Control Act of 1992".

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SEC. 1505. INTERNATIONAL NONPROLIFERATION INITIATIVE.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section, ¿during fiscal years 1994 and 1995 the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by the International Atomic Energy Agency (IAEA) that are designed to ensure more effective safeguards against nuclear proliferation and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Activities of ¿the On-Site Inspection Agency *the Department of State* in support of the United Nations Special Commission on Iraq.

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(c) FORM OF ASSISTANCE.—(1) * * *

* * * * * * *

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure ¿will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985. *will be counted as discretionary spending in the national defense budget function (function 050).*

* * * * * * *

(d) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section ¿for fiscal year 1994 shall be derived from amounts made available to the Department of Defense for fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. *for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.* Funds provided as assistance under this section for a fiscal year ¿referred to in this paragraph may also be derived from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section ¿may not exceed $40,000,000. Of such amount, not more than $25,000,000 for fiscal year 1994 or $20,000,000 for fiscal year 1995 may be used for the activities of ¿the On-Site Inspection Agency *the Department of Defense* in support of the United Nations Special Commission on Iraq, *may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, or $15,000,000 for fiscal year 1996.*

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(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of ¿fiscal years 1994 and 1995 *a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect,* the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) * * *

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(f) TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 1996.

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DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1993".

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TITLE XXVIII—GENERAL PROVISIONS

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Subtitle C—Land Transactions

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SEC. 2834. LEASES OF PROPERTY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) * * *

(b) LEASE AUTHORIZED WITH CITY OR PORT OF OAKLAND.—(1) * * *

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(4) In lieu of entering into a lease under paragraph (1), or in place of an existing lease under such paragraph, the Secretary may convey, without consideration, the property described in such para-

graph to the City of Oakland, California, the Port of Oakland, California, or the City of Alameda, California, under such terms and conditions as the Secretary considers appropriate.

(5) The exact acreage and legal description of any property conveyed under paragraph (4) shall be determined by a survey satisfactory to the Secretary. The cost of each survey shall be borne by the recipient of the property.

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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Subtitle D—Air Force Programs

SEC. 131. B–2 BOMBER AIRCRAFT PROGRAM.

(a) * * *

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¿(c) REAFFIRMATION OF LIMITATION ON NUMBER OF B–2 AIRCRAFT.—As provided in section 151(c) of Public Law 102–484 (106 Stat. 2339), the Secretary of the Air Force may not procure more than 20 deployable B–2 bomber aircraft (plus one test aircraft which may not be made operational).

¿(d) LIMITATION ON TOTAL PROGRAM COST.—The total amount obligated on or after the date of the enactment of this Act (1) for research, development, test, and evaluation for, and acquisition, modification and retrofitting of, the B–2 bomber aircraft referred to in subsection (c), and (2) for paying the costs associated with termination of the B–2 bomber aircraft program upon completion of the acquisition of those aircraft may not exceed $28,968,000,000 (in fiscal year 1981 constant dollars).

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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Subtitle C—Missile Defense Programs

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¿SEC. 234. COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

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

¿(1) Section 232(a)(1) of the Missile Defense Act of 1991 (10 U.S.C. 2431 note) establishes a goal for the United States to comply with the ABM Treaty (including any protocol or amendment thereto) and not develop, test, or deploy any ballistic missile defense system, or component thereof, in violation of that treaty (as modified by any protocol or amendment thereto) while deploying an anti-ballistic missile system capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles.

¿(2) The Department of Defense has conducted no formal compliance review of any of the components or systems scheduled for early deployment as part of either the Theater Missile Defense Initiative or the initial limited defense system to be located at Grand Forks, North Dakota.

¿(3) The Department of Defense is continuing to obligate hundreds of millions of dollars for the development and testing of systems or components of ballistic missile defense systems before a determination has been made that, if successfully developed, tested, or deployed, those systems and components would be in compliance with the ABM Treaty.

¿(4) The President requested the authorization and appropriation of additional funds for continued development of such systems and components during fiscal year 1994.

¿(5) The United States and its allies face existing and expanding threats from ballistic missiles capable of being used as theater weapon systems that are presently possessed by, being developed by, or being acquired by a number of countries, including Iraq, Iran, and North Korea.

¿(6) Some theater ballistic missiles presently deployed or being developed (such as the Chinese-made CSS–2) have capabilities equal to or greater than the capabilities of missiles which were determined to be strategic missiles more than 20 years ago under the SALT I Interim Agreement of 1972 entered into between the United States and the Soviet Union.

¿(7) The ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles, regardless of the capabilities of such missiles, unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles.

¿(8) It is a national security priority of the United States to develop and deploy highly effective theater missile defense systems capable of countering the existing and expanding threats posed by modern theater ballistic missiles as soon as is technically possible.

¿(9) It is essential that the Secretary of Defense immediately undertake and complete a review for compliance with the ABM Treaty of proposed theater missile defense systems, system upgrades, and system components so as to not delay the develop-

ment and deployment of such highly effective theater missile defense systems.

¿(b) REQUIRED COMPLIANCE REVIEW.—(1) The Secretary of Defense shall review the current baseline configuration of each system or system upgrade specified in paragraph (2), and the system components, to determine whether the development, testing, or deployment of that system or system upgrade would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

¿(2) The systems and system upgrades to be reviewed pursuant to paragraph (1) are the following:

¿(A) The Patriot Multimode Missile.

¿(B) The Extended Range Interceptor (ERINT).

¿(C) The Ground-Based Radar for theater missile defenses (GBR–T).

¿(D) The Theater High Altitude Area Defense interceptor missile (THAAD).

¿(E) The Brilliant Eyes space-based sensor system.

¿(F) Upgrades to the AEGIS/SPY radar system of the Navy.

¿(G) Upgrades to the Standard Missile–2 (SM–2) interceptor of the Navy.

¿(3) If during the course of the compliance review under paragraph (1) (or any other such compliance review of a ballistic missile system or system upgrade), an issue arises that appears to indicate that a provision of the ABM Treaty may limit research, development, testing, or deployment by the United States of highly effective theater missile defense systems capable of countering modern theater ballistic missiles, the Secretary of Defense shall immediately submit to the appropriate congressional committees a report on that issue.

¿(c) REPORT.—(1) For each system and system upgrade specified in paragraph (2) of subsection (b), the Secretary shall submit to the appropriate congressional committees a report on the results of the review required by that subsection. A report may include the results of the reviews of more than one system and system upgrade. For any system or system upgrade determined not to be in compliance with the ABM Treaty, the Secretary shall indicate (A) what changes to the ABM Treaty would be required for the system to be deemed compliant with such modified ABM Treaty, and (B) what changes to the performance capability of the system or system upgrade would be required in order for it to become compliant with the existing Treaty, together with the effect of those performance capability changes on the effectiveness of the planned missile defense architecture.

¿(2) With regard to the Brilliant Eyes space-based sensor system, the Secretary shall include in the report findings on each of the following issues:

¿(A) Whether the current baseline configuration of the Brilliant Eyes space-based sensor system would comply with the ABM Treaty if the system were used in conjunction with the planned ground-based radar system and its ground-based interceptors at Grand Forks, North Dakota.

¿(B) If not, whether design changes or operational changes can be made to the Brilliant Eyes space-based sensor system that—

¿(i) will result in the sensor system, when employed in conjunction with the planned ground-based radar system and its ground-based interceptors, being in compliance with the ABM Treaty; and

¿(ii) will not prevent the sensor system from performing its strategic defense missions with a high degree of effectiveness.

¿(C) If not, whether the Brilliant Eyes space-based sensor system can be made, through design changes or operational changes, for use only with theater missile defense systems and be in compliance with the ABM Treaty.

¿(D) If so, the extent to which deployment of the Brilliant Eyes space-based sensor system would enhance the capability of upper-tier theater defense systems and lower-tier theater defense systems, respectively.

¿(d) LIMITATIONS ON FUNDING PENDING SUBMISSION OF REPORT.—(1) Not more than 50 percent of the funds reported pursuant to section 231(e) to be allocated for fiscal year 1994 for a system or system upgrade specified in subsection (b)(2) may be obligated for that system or system upgrade, or any of its components, until the Secretary completes the compliance review of such system or system upgrade required by subsection (b) and submits to the appropriate congressional committees the report on the results of the compliance review of that system or system upgrade as required by subsection (c).

¿(2) Funds appropriated to the Department of Defense for fiscal year 1994, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1994 or for any fiscal year before 1994, may not be obligated or expended—

¿(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter; or

¿(B) for the acquisition of any material or equipment (including long lead materials, components, piece parts, or test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

¿(e) DEFINITIONS.—In this section:

¿(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

¿(2) The term "ABM Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Re-

publics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

¿(3) The term "appropriate congressional committees" means—

¿(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

¿(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

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SEC. 237. THEATER AND LIMITED DEFENSE SYSTEM TESTING.

¿(a) TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—Except for the acquisition of those production representative missiles required for the completion of developmental and operational testing, the Secretary of Defense may not approve a theater missile defense interceptor program proceeding into the Low-Rate Initial Production (Milestone IIIA) acquisition stage until the Secretary certifies to the congressional defense committees that more than two realistic live-fire tests, consistent with section 2366 of title 10, United States Code, have been conducted, the results of which demonstrate the achievement by the interceptors of the weapons systems performance goals specified in the system baseline document established pursuant to section 2435(a)(1)(A) of title 10, United States Code, before the program entered engineering and manufacturing systems development. The live-fire tests demonstrating such results shall involve multiple interceptors and multiple targets in the presence of realistic countermeasures.

(a) TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—(1) The Secretary of Defense may not approve a theater missile defense interceptor program proceeding beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that such program has successfully completed initial operational test and evaluation.

(2) In order to be certified under paragraph (1) as having been successfully completed, the initial operational test and evaluation conducted with respect to an interceptors program must have included flight tests—

(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

(B) the results of which demonstrate the achievement by the interceptors of the baseline performance thresholds.

(3) For purposes of this subsection, the baseline performance thresholds with respect to a program are the weapons systems performance thresholds specified in the baseline description for the system established (pursuant to section 2435(a)(1) of title 10, United States Code) before the program entered the engineering and manufacturing development stage.

(4) The number of flight tests described in paragraph (2) that are required in order to make the certification under paragraph (1) shall be a number determined by the Secretary of Defense to be sufficient for the purposes of this section.

(5) The Secretary may augment live-fire testing to demonstrate weapons system performance goals for purposes of the certification under paragraph (1) through the use of modeling and simulation that is validated by ground and flight testing.

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TITLE III—OPERATION AND MAINTENANCE

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SEC. 333. CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH THE DEFENSE BUSINESS OPERATIONS FUND.

¿(a) IN GENERAL.—Charges for goods and services provided through the Defense Business Operations Fund—

¿(1) shall include amounts necessary to recover the full costs of—

¿(A) the development, implementation, operation, and maintenance of systems supporting the wholesale supply and maintenance activities of the Department of Defense; and

¿(B) the use of military personnel in the provision of the goods and services, as computed by calculating, to the maximum extent practicable, such costs if employees of the Department of Defense were used in the provision of the goods and services; and

¿(2) shall not include amounts necessary to recover the costs of a military construction project (as such term is defined in section 2801(b) of title 10, United States Code), other than a minor construction project financed by the Defense Business Operations Fund pursuant to section 2805(c)(1) of such title.

¿(b) DEFENSE FINANCE ACCOUNTING SERVICES.—The full cost of the operation of the Defense Finance Accounting Service shall be financed within the Defense Business Operations Fund through charges for goods and services provided through the Fund.

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SEC. 371. SHIPS' STORES.

(a) CONVERSION TO OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITIES.—Not later than December 31, ¿1995 *1996*, the Secretary of the Navy shall convert the operation of all ships' stores from operation as an activity funded by direct appropriations to operation by the Navy Exchange Service Command as an activity funded from sources other than appropriated funds.

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle C—Other Matters

SEC. 731. USE OF HEALTH MAINTENANCE ORGANIZATION MODEL AS OPTION FOR MILITARY HEALTH CARE.

(a) * * *

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(c) GOVERNMENT COSTS.—The health benefit option required under subsection (a) shall be administered so that the costs incurred by the Secretary under ¿each managed health care initiative that includes the option *the TRICARE program* are no greater than the costs that would otherwise be incurred to provide health care to the ¿covered beneficiaries who enroll in the option *members of the uniformed services and covered beneficiaries who participate in the TRICARE program*.

¿(d) COVERED BENEFICIARY DEFINED.—For purposes of this section, the term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(2) The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Defense Technology and Industrial Base, Reinvestment and Conversion

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SEC. 802. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense, through the Director of Defense Research and Engineering, ¿shall *may* establish a University Research Initiative Support Program.

(b) PURPOSE.—Under the program, the Director ¿shall *may* award grants and contracts to eligible institutions of higher education to support the conduct of research and development relevant to requirements of the Department of Defense.

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(e) SELECTION PROCESS.—In awarding grants and contracts under the program, the Director shall use a merit-based selection process that is consistent with the provisions of section 2361(a) of title 10, United States Code. ¿Such selection process shall require that each person selected to participate in such a merit-based selection process be a member of the faculty or staff of an institution of higher education that is a member of the National Association of State Universities and Land Grant Colleges or the American Association of State Colleges and Universities.

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TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Cooperative Threat Reduction Act of 1993".

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¿SEC. 1204. DEMILITARIZATION ENTERPRISE FUND.

¿(a) DESIGNATION OF FUND.—The President is authorized to designate a Demilitarization Enterprise Fund for the purposes of this section. The President may designate as the Demilitarization Enterprise Fund any organization that satisfies the requirements of subsection (e).

¿(b) PURPOSE OF FUND.—The purpose of the Demilitarization Enterprise Fund is to receive grants pursuant to this section and to use the grant proceeds to provide financial support under programs described in subsection (b)(5) for demilitarization of industries and conversion of military technologies and capabilities into civilian activities.

¿(c) GRANT AUTHORITY.—The President may make one or more grants to the Demilitarization Enterprise Fund.

¿(d) RISK CAPITAL FUNDING OF DEMILITARIZATION.—The Demilitarization Enterprise Fund shall use the proceeds of grants received under this section to provide financial support in accordance with subsection (b) through transactions as follows:

¿(1) Making loans.

¿(2) Making grants.

¿(3) Providing collateral for loan guaranties by the Export-Import Bank of the United States.

¿(4) Taking equity positions.

¿(5) Providing venture capital in joint ventures with United States industry.

¿(6) Providing risk capital through any other form of transaction that the President considers appropriate for supporting programs described in subsection (b)(5).

¿(e) ELIGIBLE ORGANIZATION.—An organization is eligible for designation as the Demilitarization Enterprise Fund if the organization—

¿(1) is a private, nonprofit organization;

¿(2) is governed by a board of directors consisting of private citizens of the United States; and

¿(3) provides assurances acceptable to the President that it will use grants received under this section to provide financial support in accordance with this section.

¿(f) OPERATIONAL PROVISIONS.—The following provisions of section 201 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 22 U.S.C. 5421) shall apply with respect to the Demilitarization Enterprise Fund in the same manner as such provisions apply to Enterprise Funds designated pursuant to subsection (d) of such section:

¿(1) Subsection (d)(5), relating to the private character of Enterprise Funds.

¿(2) Subsection (h), relating to retention of interest earned in interest bearing accounts.

¿(3) Subsection (i), relating to use of United States private venture capital.

¿(4) Subsection (k), relating to support from Executive agencies.

¿(5) Subsection (l), relating to limitation on payments to Fund personnel.

¿(6) Subsections (m) and (n), relating to audits.

¿(7) Subsection (o), relating to record keeping requirements.

¿(8) Subsection (p), relating to annual reports.

In addition, returns on investments of the Demilitarization Enterprise Fund and other payments to the Fund may be reinvested in projects of the Fund.

¿(g) EXPERIENCE OF OTHER ENTERPRISE FUNDS.—To the maximum extent practicable, the Board of Directors of the Demilitarization Enterprise Fund should adopt for that Fund practices and procedures that have been developed by Enterprise Funds for which funding has been made available pursuant to section 201 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 22 U.S.C. 5421).

¿(h) CONSULTATION REQUIREMENT.—In the implementation of this section, the Secretary of State and the Administrator of the Agency for International Development shall be consulted to ensure that the Articles of Incorporation of the Fund (including provisions specifying the responsibilities of the Board of Directors of the Fund), the terms of United States Government grant agreements with the Fund, and United States Government oversight of the Fund are, to the maximum extent practicable, consistent with the Articles of Incorporation of, the terms of grant agreements with, and the oversight of the Enterprise Funds established pursuant to section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421) and comparable provisions of law.

¿(i) INITIAL IMPLEMENTATION.—The Board of Directors of the Demilitarization Enterprise Fund shall publish the first annual report of the Fund not later than January 31, 1995.

¿(j) TERMINATION OF DESIGNATION.—A designation of an organization as the Demilitarization Enterprise Fund under subsection (a) shall be temporary. When making the designation, the President shall provide for the eventual termination of the designation.

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TITLE XIII—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

SEC. 1301. SHORT TITLE.

This title may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993".

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Subtitle C—Personnel Adjustment, Education, and Training Programs

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¿SEC. 1333. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE EDUCATION AND TRAINING IN ENVIRONMENTAL RESTORATION TO DISLOCATED DEFENSE WORKERS AND YOUNG ADULTS.

¿(a) GRANT PROGRAM AUTHORIZED.—(1) The Secretary of Defense may establish a program to provide demonstration grants to institutions of higher education to assist such institutions in providing education and training in environmental restoration and hazardous waste management to eligible dislocated defense workers and young adults described in subsection (d). The Secretary shall award the grants pursuant to a merit-based selection process.

¿(2) A grant provided under this subsection may cover a period of not more than three fiscal years, except that the payments under the grant for the second and third fiscal year shall be subject to the approval of the Secretary and to the availability of appropriations to carry out this section in that fiscal year.

¿(b) APPLICATION.—To be eligible for a grant under subsection (a), an institution of higher education shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require. The application shall include the following:

¿(1) An assurance by the institution of higher education that it will use the grant to supplement and not supplant non-Federal funds that would otherwise be available for the education and training activities funded by the grant.

¿(2) A proposal by the institution of higher education to provide expertise, training, and education in hazardous materials and waste management and other environmental fields applicable to defense manufacturing sites and Department of Defense and Department of Energy defense facilities.

¿(c) USE OF GRANT FUNDS.—(1) An institution of higher education receiving a grant under subsection (a) shall use the grant to establish a consortium consisting of the institution and one or more of each of the entities described in paragraph (2) for the purpose of establishing and conducting a program to provide education and training in environmental restoration and waste management to eligible individuals described in subsection (d). To the extent practicable, the Secretary shall authorize the consortium to use a mili-

tary installation closed or selected to be closed under a base closure law in providing on-site basic skills training to participants in the program.

¿(2) The entities referred to in paragraph (1) are the following:

¿(A) Appropriate State and local agencies.

¿(B) Private industry councils (as described in section 102 of the Job Training Partnership Act (29 U.S.C. 1512)).

¿(C) Community-based organizations (as defined in section 4(5) of such Act (29 U.S.C. 1503(5)).

¿(D) Businesses.

¿(E) Organized labor.

¿(F) Other appropriate educational institutions.

¿(d) ELIGIBLE INDIVIDUALS.—A program established or conducted using funds provided under subsection (a) may provide education and training in environmental restoration and waste management to—

¿(1) individuals who have been terminated or laid off from employment (or have received notice of termination or lay off) as a consequence of reductions in expenditures by the United States for defense, the cancellation, termination, or completion of a defense contract, or the closure or realignment of a military installation under a base closure law, as determined in accordance with regulations prescribed by the Secretary; or

¿(2) individuals who have attained the age of 16 but not the age of 25.

¿(e) ELEMENTS OF EDUCATION AND TRAINING PROGRAM.—In establishing or conducting an education and training program using funds provided under subsection (a), the institution of higher education shall meet the following requirements:

¿(1) The institution of higher education shall establish and provide a work-based learning system consisting of education and training in environmental restoration—

¿(A) which may include basic educational courses, on-site basic skills training, and mentor assistance to individuals described in subsection (d) who are participating in the program; and

¿(B) which may lead to the awarding of a certificate or degree at the institution of higher education.

¿(2) The institution of higher education shall undertake outreach and recruitment efforts to encourage participation by eligible individuals in the education and training program.

¿(3) The institution of higher education shall select participants for the education and training program from among eligible individuals described in paragraph (1) or (2) of subsection (d).

¿(4) To the extent practicable, in the selection of young adults described in subsection (d)(2) to participate in the education and training program, the institution of higher education shall give priority to those young adults who—

¿(A) have not attended and are otherwise unlikely to be able to attend an institution of higher education; or

¿(B) have, or are members of families who have, received a total family income that, in relation to family size, is not in excess of the higher of—

¿(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))); or

¿(ii) 70 percent of the lower living standard income level.

¿(5) To the extent practicable, the institution of higher education shall select instructors for the education and training program from institutions of higher education, appropriate community programs, and industry and labor.

¿(6) To the extent practicable, the institution of higher education shall consult with appropriate Federal, State, and local agencies carrying out environmental restoration programs for the purpose of achieving coordination between such programs and the education and training program conducted by the consortium.

¿(f) SELECTION OF GRANT RECIPIENTS.—To the extent practicable, the Secretary shall provide grants to institutions of higher education under subsection (a) in a manner which will equitably distribute such grants among the various regions of the United States.

¿(g) LIMITATION ON AMOUNT OF GRANT TO A SINGLE RECIPIENT.—The amount of a grant under subsection (a) that may be made to a single institution of higher education in a fiscal year may not exceed 1/3 of the amount made available to provide grants under such subsection for that fiscal year.

¿(h) REPORTING REQUIREMENTS.—(1) The Secretary may provide a grant to an institution of higher education under subsection (a) only if the institution agrees to submit to the Secretary, in each fiscal year in which the Secretary makes payments under the grant to the institution, a report containing—

¿(A) a description and evaluation of the education and training program established by the consortium formed by the institution under subsection (c); and

¿(B) such other information as the Secretary may reasonably require.

¿(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the President and Congress an interim report containing—

¿(A) a compilation of the information contained in the reports received by the Secretary from each institution of higher education under paragraph (1); and

¿(B) an evaluation of the effectiveness of the demonstration grant program authorized by this section.

¿(3) Not later than January 1, 1997, the Secretary shall submit to the President and Congress a final report containing—

¿(A) a compilation of the information described in the interim report; and

¿(B) a final evaluation of the effectiveness of the demonstration grant program authorized by this section, including a recommendation as to the feasibility of continuing the program.

¿(i) DEFINITIONS.—For purposes of this section:

¿(1) BASE CLOSURE LAW.—The term "base closure law" means the following:

¿(A) 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) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

¿(C) Section 2687 of title 10, United States Code.

¿(D) Any other similar law enacted after the date of the enactment of this Act.

¿(2) ENVIRONMENTAL RESTORATION.—The term "environmental restoration" means actions taken consistent with a permanent remedy to prevent or minimize the release of hazardous substances into the environment so that such substances do not migrate to cause substantial danger to present or future public health or welfare or the environment.

¿(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

¿(4) SECRETARY.—The term "Secretary" means the Secretary of Defense.

¿(j) CONFORMING REPEAL.—Section 4452 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 2701 note) is repealed.

¿SEC. 1334. ENVIRONMENTAL EDUCATION OPPORTUNITIES PROGRAM.

¿(a) AUTHORITY.—The Secretary of Defense, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, may establish a scholarship program in order to enable eligible individuals described in subsection (d) to undertake the educational training or activities relating to environmental engineering, environmental sciences, or environmental project management in fields related to hazardous waste management and cleanup described in subsection (b) at the institutions of higher education described in subsection (c).

¿(b) EDUCATIONAL TRAINING OR ACTIVITIES.—(1) The program established under subsection (a) shall be limited to educational training or activities related to—

¿(A) site remediation;

¿(B) site characterization;

¿(C) hazardous waste management;

¿(D) hazardous waste reduction;

¿(E) recycling;

¿(F) process and materials engineering;

¿(G) training for positions related to environmental engineering, environmental sciences, or environmental project management (including training for management positions); and

¿(H) environmental engineering with respect to the construction of facilities to address the items described in subparagraphs (A) through (G).

¿(2) The program established under subsection (a) shall be limited to educational training or activities designed to enable individuals to achieve specialization in the following fields:

¿(A) Earth sciences.

¿(B) Chemistry.

¿(C) Chemical Engineering.
¿(D) Environmental engineering.
¿(E) Statistics.
¿(F) Toxicology.
¿(G) Industrial hygiene.
¿(H) Health physics.
¿(I) Environmental project management.

¿(c) ELIGIBLE INSTITUTIONS OF HIGHER EDUCATION.—Scholarship funds awarded under this section shall be used by individuals awarded scholarships to enable such individuals to attend institutions of higher education associated with hazardous substance research centers to enable such individuals to undertake a program of educational training or activities described in subsection (b) that leads to an undergraduate degree, a graduate degree, or a degree or certificate that is supplemental to an academic degree.

¿(d) ELIGIBLE INDIVIDUALS.—Individuals eligible for scholarships under the program established under subsection (a) are the following:

¿(1) Any member of the Armed Forces who—

¿(A) was on active duty or full-time National Guard duty on September 30, 1990;

¿(B) during the 5-year period beginning on that date—

¿(i) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

¿(ii) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title; and

¿(C) is not entitled to retired or retainer pay incident to that separation.

¿(2) Any civilian employee of the Department of Energy or the Department of Defense (other than an employee referred to in paragraph (3)) who—

¿(A) is terminated or laid off from such employment during the five-year period beginning on September 30, 1990, as a result of reductions in defense-related spending (as determined by the appropriate Secretary); and

¿(B) is not entitled to retired or retainer pay incident to that termination or lay off.

¿(3) Any civilian employee of the Department of Defense whose employment at a military installation approved for closure or realignment under a base closure law is terminated as a result of such closure or realignment.

¿(e) AWARD OF SCHOLARSHIP.—(1)(A) The Secretary of Defense shall award scholarships under this section to such eligible individuals as the Secretary determines appropriate pursuant to regulations or policies promulgated by the Secretary.

¿(B) In awarding a scholarship under this section, the Secretary shall—

¿(i) take into consideration the extent to which the qualifications and experience of the individual applying for the scholar-

ship prepared such individual for the educational training or activities to be undertaken; and

¿(ii) award a scholarship only to an eligible individual who has been accepted for enrollment in the institution of higher education described in subsection (c) and providing the educational training or activities for which the scholarship assistance is sought.

¿(2) The Secretary of Defense shall determine the amount of the scholarships awarded under this section, except that the amount of scholarship assistance awarded to any individual under this section may not exceed—

¿(A) $10,000 in any 12-month period; and

¿(B) a total of $20,000.

¿(f) APPLICATION; PERIOD FOR SUBMISSION.—(1) Each individual desiring a scholarship under this section shall submit an application to the Secretary of Defense in such manner and containing or accompanied by such information as the Secretary may reasonably require.

¿(2) A member of the Armed Forces described in subsection (d)(1) who desires to apply for a scholarship under this section shall submit an application under this subsection not later than 180 days after the date of the separation of the member. In the case of members described in subsection (d)(1) who were separated before the date of the enactment of this Act, the Secretary shall accept applications from these members submitted during the 180-day period beginning on the date of the enactment of this Act.

¿(3) A civilian employee described in paragraph (2) or (3) of subsection (d) who desires to apply for a scholarship under this section, but who receives no prior notice of such termination or lay off, may submit an application under this subsection at any time after such termination or lay off. A civilian employee described in paragraph (1) or (2) of subsection (d) who receives a notice of termination or lay off shall submit an application not later than 180 days before the effective date of the termination or lay off. In the case of employees described in such paragraphs who were terminated or laid off before the date of the enactment of this Act, the Secretary shall accept applications from these employees submitted during the 180-day period beginning on the date of the enactment of this Act.

¿(g) REPAYMENT.—(1) Any individual receiving scholarship assistance from the Secretary of Defense under this section shall enter into an agreement with the Secretary under which the individual agrees to pay to the United States the total amount of the scholarship assistance provided to the individual by the Secretary under this section, plus interest at the rate prescribed in paragraph (4), if the individual does not complete the educational training or activities for which such assistance is provided.

¿(2) If an individual fails to pay to the United States the total amount required pursuant to paragraph (1), including the interest, at the rate prescribed in paragraph (4), the unpaid amount shall be recoverable by the United States from the individual or such individual's estate by—

¿(A) in the case of an individual who is an employee of the United States, set off against accrued pay, compensation,

amount of retirement credit, or other amount due the employee from the United States; and

¿(B) such other method as is provided by law for the recovery of amounts owing to the United States.

¿(3) The Secretary of Defense may waive in whole or in part a required repayment under this subsection if the Secretary determines that the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

¿(4) The total amount of scholarship assistance provided to an individual under this section, for purposes of repayment under this subsection, shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

¿(h) COORDINATION OF BENEFITS.—Any scholarship assistance provided to an individual under this section shall be taken into account in determining the eligibility of the individual for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

¿(i) REPORT TO CONGRESS.—Not later than January 1, 1995, the Secretary of Defense, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall submit to the Congress a report describing the activities undertaken under the program authorized by subsection (a) and containing recommendations for future activities under the program.

¿(j) FUNDING.—(1) To carry out the scholarship program authorized by subsection (a), the Secretary of Defense may use the unobligated balance of funds made available pursuant to section 4451(k) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2701 note) for fiscal year 1993 for environmental scholarship and fellowship programs for the Department of Defense.

¿(2) The cost of carrying out the program authorized by subsection (a) may not exceed $8,000,000 in any fiscal year.

¿(k) DEFINITIONS.—For purposes of this section:

¿(1) The term "base closure law" means the following:

¿(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

¿(B) 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).

¿(2) The term "hazardous substance research centers" means the hazardous substance research centers described in section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(d)). Such term includes the Great Plains and Rocky Mountain Hazardous Substance Research Center, the Northeast Hazardous Substance Research Center, the Great Lakes and Mid-Atlantic Hazardous Substance Research Center, the South and Southwest Hazardous Substance Research Center, and the Western Region Hazardous Substance Research Center.

¿(3) The term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

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TITLE XIV—MATTERS RELATING TO ALLIES AND OTHER NATIONS

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Subtitle C—Export of Defense Articles

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SEC. 1423. EXTENSION OF LANDMINE EXPORT MORATORIUM.

(a) * * *

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(d) DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means any of the following:

(1) * * *

* * * * * * *

(3) Any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated ¿by remote control or automatically after a lapse of time.

Subtitle D—Other Matters

* * * * * * *

¿**SEC. 1432. AMERICAN DIPLOMATIC FACILITIES IN GERMANY.**

¿(a) LIMITATION ON SOURCE OF FUNDS FOR NEW UNITED STATES DIPLOMATIC FACILITIES.—(1) As of January 1, 1995, the United States may not purchase, construct, lease, or otherwise occupy any facility as an embassy, chancery, or consular facility in Germany unless that facility is purchased, constructed, modified, or leased with funds provided by the Government of Germany as an offset for the value of facilities returned by the United States Government to the Government of Germany pursuant to Article 52 of the Status-of-Forces Agreement with the Government of Germany in effect on the date of the enactment of this Act.

¿(2) The limitation in paragraph (1) does not apply with respect to any facility occupied as of January 1, 1995, by United States diplomatic personnel.

¿(b) CERTIFICATION.—As of January 1, 1995, the Secretary of State (and any representative of the Secretary of State) may not enter into any legal instrument to purchase, construct, modify, or lease any facility described in subsection (a) until the Secretary of Defense certifies to the appropriate committees of Congress that the United States has received (or is scheduled to receive) cash payments or offsets-in-kind of a value not less than 50 percent of the value of the facilities returned by the United States Government to the Government of Germany pursuant to Article 52 of the

Status-of-Forces Agreement with the Government of Germany in effect on the date of the enactment of this Act.

¿(c) DEFINITION.—For purposes of this section, the term "appropriate committees of Congress" means—

¿(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

¿(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

* * * * * * *

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1994".

* * * * * * *

TITLE XXIII—AIR FORCE

* * * * * * *

SEC. 2310. TRANSFER OF FUNDS FOR CONSTRUCTION OF FAMILY HOUSING, SCOTT AIR FORCE BASE, ILLINOIS.

(a) * * *

(b) RETENTION OF INTEREST.—Interest accrued on the funds transferred to the County pursuant to subsection (a) shall be retained in the same account as the transferred funds and shall be available to the County for the same purpose as the transferred funds.

¿(b) *(c)* USE OF FUNDS.—All funds transferred pursuant to subsection (a) shall be used by the County for the construction, at a location acceptable to the Secretary, of a family housing complex to replace the Cardinal Creek Housing Complex at Scott Air Force Base. *The number of units constructed using the transferred funds (and interest accrued on these funds) may not exceed the number of units of military family housing authorized for Scott Air Force Base, Illinois, in section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2595).*

(d) COMPLETION OF CONSTRUCTION.—Upon the completion of the construction authorized by this section, all funds remaining from the funds transferred pursuant to subsection (a) and the interest accrued on these funds shall be deposited in the general fund of the Treasury of the United States.

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TITLE 10, UNITED STATES CODE

Subtitle A—General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 2—DEPARTMENT OF DEFENSE

* * * * * * *

§ 114. Annual authorization of appropriations

(a) * * *

* * * * * * *

(f)(1) No funds may be appropriated, or authorized to be appropriated, for any fiscal year for a purpose named in paragraph (1), (3), (4), or (5) of subsection (a) using incremental funding.

(2) In the budget submitted by the President for any fiscal year, the President may not request appropriations, or authorization of appropriations, on the basis of incremental funding for a purpose specified in paragraph (1).

(3) In this subsection, the term "incremental funding" means the provision of funds for a fiscal year for a procurement in less than the full amount required for procurement of a complete and usable product, with the expectation (or plan) for additional funding to be made for subsequent fiscal years to complete the procurement of a complete and usable product.

(4) This subsection does not apply with respect to funding classifed as advance procurement funding.

§ 115. Personnel strengths: requirement for annual authorization

(a) Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) * * *

* * * * * * *

¿(3) The average military training student loads for each of the armed forces (other than the Coast Guard).

(b) No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law; *or*

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law¿; or .

¿(3) training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law.

* * * * * * *

¿(f) Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

¿(1) Recruit and specialized training.

¿(2) Flight training.

¿(3) Professional training in military and civilian institutions.

¿(4) Officer acquisition training.

(g) Congress shall authorize for each fiscal year the end strength for military technicians for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title.

§ 115a. Annual manpower requirements report

(a) * * *

(b)(1) * * *

(2) The justification and explanation shall specify in detail for all major military force units (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the following:

(A) Unit mission and capability.

(B) Strategy which the unit supports.

¿(C) Area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

* * * * * * *

¿(d) In each such report, the Secretary shall also—

¿(1) identify, define, and group by mission and by region the types of military bases, installations, and facilities;

¿(2) provide an explanation and justification of the relationship between this base structure and the proposed military force structure; and

¿(3) provide a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce those costs.

¿(e) *(d)* The Secretary shall also include in each such report, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

(1) * * *

* * * * * * *

¿(4) An analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

¿(A) Regular officers.

¿(B) Reserve officers on the active-duty list.

¿(C) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

¿(D) Officers other than those specified in subparagraphs (A), (B), and (C) serving in a temporary grade.

¿(5) An analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by—

¿(A) recruit and specialized training;

¿(B) flight training;

¿(C) professional training in military and civilian institutions; and

¿(D) officer acquisition training.

¿(f) In each such report, the Secretary shall also include recommendations for the average student load for each category of training for each component of the armed forces for the next three fiscal years. The Secretary shall include in the report justification for, and explanation of, the average student loads recommended.

¿(g) *(e)*(1) In each such report, the Secretary shall also include recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.

(2) For purposes of this subsection, the term ''medical personnel'' includes—

(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

(D) enlisted members engaged in or supporting medically related activities; and

(E) such other personnel as the Secretary considers appropriate.

(h) In each such report, the Secretary shall include a separate report on the Army and Air Force military technician programs. The report shall include a presentation, shown by reserve component and shown both as of the end of the preceding fiscal year and for the next fiscal year, of the following:

(1) The number of military technicians required to be employed (as specified in accordance with Department of Defense procedures), the number authorized to be employed under Department of Defense personnel procedures, and the number actually employed.

(2) Within each of the numbers under paragraph (1)—

(A) the number applicable to a reserve component management headquarter organization; and

(B) the number applicable to high-priority units and organizations (as specified in section 10216(a) of this title).

(3) Within each of the numbers under paragraph (1), the numbers of military technicians who are not themselves members of a reserve component (so-called "single-status" technicians), with a further display of such numbers as specified in paragraph (2).

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CHAPTER 3—GENERAL POWERS AND FUNCTIONS

Sec.
121. Regulations.
122. Official registers.

* * * * * * *

¿127a. Expenses for contingency operations.
127a. Operations for which funds are not provided in advance: funding mechanisms.
127b. Budgeting for ongoing operations.

* * * * * * *

§ 127. Emergency and extraordinary expenses

(a) * * *

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¿(c) In any case in which funds are expended under the authority of subsections (a) and (b), the Secretary of Defense shall submit a report of such expenditures on a quarterly basis to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

(c)(1) In any fiscal year in which funds are expended under the authority of this section, the Secretary of Defense shall submit a report of such expenditures on a quarterly basis to the committees specified in paragraph (3).

(2) An obligation or expenditure in an amount of $1,000,000 or more may not be made under the authority of this section for any single transaction until the Secretary of Defense has notified the committees specified in paragraph (3).

(3) The committees referred to in paragraphs (1) and (2) are—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

¿§ 127a. Expenses for contingency operations

¿(a) DESIGNATION OF NATIONAL CONTINGENCY OPERATIONS.—The funding procedures prescribed by this section apply with respect to any operation involving the armed forces that is designated by the Secretary of Defense as a National Contingency Operation. Whenever the Secretary designates an operation as a National Contingency Operation, the Secretary shall promptly transmit notice of that designation in writing to Congress. This section does not provide authority for the President or the Secretary of Defense to carry out an operation, but applies to the Department of Defense mechanisms by which funds are provided for operations that the armed forces are required to carry out under some other authority.

¿(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) When an operating unit of the armed forces participating in a National Contingency Operation receives support services from a support unit of the armed forces that operates through the Defense Business Operations Fund (or a successor fund), that operating unit need not reimburse that support unit for the incremental costs incurred by the support unit in providing such support, notwithstanding any other provision of law or Government accounting practice.

¿(2) The amounts which but for paragraph (1) would be required to be reimbursed to a support unit shall be recorded as an expense attributable to the operation and shall be accounted for separately.

¿(3) The total of the unreimbursed sums for all National Contingency Operations may not exceed $300,000,000 at any one time.

¿(c) FINANCIAL PLAN FOR CONTINGENCY OPERATIONS.—(1) Within two months of the beginning of any National Contingency Operation, the Secretary of Defense shall submit to Congress a financial plan for the operation that sets forth the manner by which the Secretary proposes to obtain funds for the full cost to the United States of the operation.

¿(2) The plan shall specify in detail how the Secretary proposes to make the Defense Business Operations Fund (or a successor fund) whole again.

¿(d) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs that are directly attributable to the operation and that are otherwise chargeable to accounts available for operation and maintenance or for military personnel. Any costs which are otherwise chargeable to accounts available for procurement may not be considered to be incremental costs for purposes of this section.

¿(e) INCREMENTAL PERSONNEL COSTS ACCOUNT.—There is hereby established in the Department of Defense a reserve fund to be known as the "National Contingency Operation Personnel Fund". Amounts in the fund shall be available for incremental military personnel costs attributable to a National Contingency Operation. Amounts in the fund remain available until expended.

¿(f) COORDINATION WITH WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct a National Contingency Operation or any other operation.

¿(g) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense contingency funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

¿(h) DEFINITION.—In this section, the term "National Contingency Operation" means a military operation that is designated by the Secretary of Defense as an operation the cost of which, when considered with the cost of other ongoing or potential military operations, is expected to have a negative effect on training and readiness.

§ 127a. Operations for which funds are not provided in advance: funding mechanisms

(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation of the Department of Defense—

(A) that involves the deployment (other than for a training exercise) of elements of the armed forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) that involves humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) Whenever any operation described in paragraph (1) is commenced, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation).

(3) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the armed forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the armed forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary

of Defense may, subject to the provisions of appropriations Acts, transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is $200,000,000.

(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation from any of the following accounts:

(A) Environmental Restoration, Defense.

(B) Cooperative Threat Reduction programs.

(C) Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs.

(D) Operations and Maintenance, Defense-Wide (but only from funds available for administration and service-wide activities).

(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

(6) A transfer made from one account to another under the authority of this subsection 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) FINANCIAL PLAN.—(1) Within 30 days after the beginning of an operation described in subsection (a), the Secretary of Defense shall submit to Congress a financial plan for the operation that sets forth the manner by which the Secretary proposes to obtain funds for the cost to the United States of the operation. The plan shall specify in detail how the Secretary proposes to restore balances in the Defense Business Operations Fund (or a successor fund) to the levels that would have been anticipated but for the provisions of subsection (b). The Secretary may not include in such a plan a means to restore such balances that is prohibited by paragraph (2) or (4).

(2) The Secretary may not restore (or propose in a plan under paragraph (1) to restore) balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

(3) If the Secretary of Defense transfers funds under subsection (c), the Secretary shall submit to Congress, within 30 days of such transfer, a plan for the restoration of the balance in the each account from which the transfer was made to the level that would have been the case but for the transfer.

(4) The Secretary may not restore (or propose in a plan under paragraph (1) or (3) to restore) balances in any the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an appropriation made for operation and maintenance that are available within that appropriation for an account (known as a budget activity 1 account) that is specified as being for operating forces.

(e) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—(1) Whenever there is an operation described in subsection (a), the President shall submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year, to be designated as an emergency supplemental appropriations, in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section.

(2) A request under paragraph (1) shall be submitted not later than the earlier of (A) the time at which incremental expenses for the operation exceed $10,000,000, or (B) 90 days after the date on which the operation begins. The request shall be submitted as a separate request from any other legislative proposal.

(f) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation).

(g) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

(h) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

§ 127b. Budgeting for ongoing operations

(a) REQUIREMENT FOR INCLUSION IN BUDGET.—In the case of an operation of the Department of Defense described in subsection (c), the President shall include with the budget submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year a specific request for enactment of legislation to provide for the provision of funds for such operation for that fiscal year in a manner that will result in there not being a lower amount of funds available to the Department of Defense for that fiscal year than would be the case if that operation were not carried out during that year. Such a request shall include one or more of the following:

> *(1) A request for enactment of appropriation of funds for the incremental costs for that operation that are expected to be incurred by the Department of Defense during the fiscal year for which the budget is submitted, with such funds to be provided in, and charged to, a budget function other than the national defense budget function (function 050).*

(2) A request for enactment of appropriation of funds for the incremental costs for that operation that are expected to be incurred by the Department of Defense during the fiscal year for which the budget is submitted, with such designations or waivers as may be necessary to ensure that (if enacted) such appropriations are not counted against the total amount of funds for the Department of Defense, or for the national defense budget function, for purpose of any statutory limitation or restriction.

(3) A request for enactment of rescissions.

(b) LIMITATION.—In the case of any operation to which the requirement of subsection (a) applies, no funds may be obligated or expended for that operation after the beginning of the fiscal year for which the budget is submitted if the requirement in subsection (a) is not complied with.

(c) COVERED OPERATIONS.—This section applies with respect to any operation of the Department of Defense involving the use of the Armed Forces that—

(1) is ongoing in the first quarter of a fiscal year;

(2) is not expected to end during the current fiscal year;

(3) for which appropriations were not specifically provided in advance for the current fiscal year.

(d) WAIVER AUTHORITY.—The President may waive the provisions of this section for any fiscal year—

(1) during which there is in effect a declaration of war; or

(2) during which authority is in effect pursuant to section 12302 of this title to order units and members of the Ready Reserve to active duty without the consent of the persons concerned.

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§ 129. Prohibition of certain civilian personnel management constraints

(a) The civilian personnel of the Department of Defense shall be managed each fiscal year solely on the basis of and consistent with (1) the workload required to carry out the functions and activities of the department and (2) the funds made available to the department for such fiscal year. The management of such personnel in any fiscal year shall not be subject to any man-year constraint or limitation *(including any limitation on full-time equivalent positions). The Secretary shall not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and that refers specifically to this subsection.*

* * * * * * *

(d) With respect to each budget activity within an appropriation for any fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number, and of the type and with the skill mix,

that are necessary to carry out the functions within that budget activity for which funds are provided for that fiscal year.

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CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

Sec.
131. Office of the Secretary of Defense.

* * * * * * *

¿133a. Deputy Under Secretary of Defense for Acquisition and Technology.

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¿134a. Deputy Under Secretary of Defense for Policy.

* * * * * * *

¿137. Director of Defense Research and Engineering.

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¿139. Director of Operational Test and Evaluation.

* * * * * * *

¿142. Assistant to the Secretary of Defense for Atomic Energy.

* * * * * * *

§ 131. Office of the Secretary of Defense

(a) * * *

(b) The Office of the Secretary of Defense is composed of the following:

(1) * * *

* * * * * * *

¿(6) The Director of Defense Research and Engineering.

¿(7) *(6)* The Assistant Secretaries of Defense.

¿(8) The Director of Operational Test and Evaluation.

¿(9) *(7)* The General Counsel of the Department of Defense.

¿(10) *(8)* The Inspector General of the Department of Defense.

¿(11) *(9)* Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

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¿§ 133a. Deputy Under Secretary of Defense for Acquisition and Technology

¿(a) There is a Deputy Under Secretary of Defense for Acquisition and Technology, appointed from civilian life by the President, by and with the advice and consent of the Senate.

¿(b) The Deputy Under Secretary of Defense for Acquisition and Technology shall assist the Under Secretary of Defense for Acquisition and Technology in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.

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¿§ 134a. Deputy Under Secretary of Defense for Policy

¿(a) There is a Deputy Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

¿(b) The Deputy Under Secretary of Defense for Policy shall assist the Under Secretary of Defense for Policy in the performance of his duties. The Deputy Under Secretary of Defense for Policy shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.

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¿§ 137. Director of Defense Research and Engineering

¿(a) There is a Director of Defense Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate.

¿(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition and Technology may prescribe.

§ 138. Assistant Secretaries of Defense

(a) There are ¿eleven *nine* Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

¿(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

¿(2) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.

¿(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

¿(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

¿(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.

¿(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense

on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.

¿(5) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Legislative Affairs. He shall have as his principal duty the overall supervision of legislative affairs of the Department of Defense.

(b) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

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(d) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, ¿the Under Secretaries of Defense, and the Director of Defense Research and Engineering *and the Under Secretaries of Defense*. The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.

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¿§ 139. Director of Operational Test and Evaluation

¿(a)(1) There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Director. The Director may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

¿(2) In this section:

¿(A) The term "operational test and evaluation" means—

¿(i) the field test, under realistic combat conditions, of any item of (or key component of) weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the weapons, equipment, or munitions for use in combat by typical military users; and

¿(ii) the evaluation of the results of such test.

¿(B) The term "major defense acquisition program" means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title or that is designated as such a program by the Director for purposes of this section.

¿(b) The Director is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on operational test and evaluation in the Department of Defense and the principal operational test and evaluation official within the senior management of the Department of Defense. The Director shall—

¿(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of operational test and evaluation in the Department of Defense;

¿(2) provide guidance to and consult with the Secretary of Defense and the Under Secretary of Defense for Acquisition

and Technology and the Secretaries of the military departments with respect to operational test and evaluation in the Department of Defense in general and with respect to specific operational test and evaluation to be conducted in connection with a major defense acquisition program;

¿(3) monitor and review all operational test and evaluation in the Department of Defense;

¿(4) coordinate operational testing conducted jointly by more than one military department or defense agency;

¿(5) review and make recommendations to the Secretary of Defense on all budgetary and financial matters relating to operational test and evaluation, including operational test facilities and equipment, in the Department of Defense; and

¿(6) monitor and review the live fire testing activities of the Department of Defense provided for under section 2366 of this title.

¿(c) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Director shall consult closely with, but the Director and the Director's staff are independent of, the Under Secretary of Defense for Acquisition and Technology and all other officers and entities of the Department of Defense responsible for acquisition.

¿(d) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.

¿(e)(1) The Secretary of a military department shall report promptly to the Director the results of all operational test and evaluation conducted by the military department and of all studies conducted by the military department in connection with operational test and evaluation in the military department.

¿(2) The Director may require that such observers as he designates be present during the preparation for and the conduct of the test part of any operational test and evaluation conducted in the Department of Defense.

¿(3) The Director shall have access to all records and data in the Department of Defense (including the records and data of each military department) that the Director considers necessary to review in order to carry out his duties under this section.

¿(f) The Director shall prepare an annual report summarizing the operational test and evaluation activities (including live fire testing activities) of the Department of Defense during the preceding fiscal year. Each such report shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition and Technology, and the Congress not later than 10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31. If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress. The report shall include such comments and recommendations as the Director considers appropriate, including comments and recommendations on resources and facilities available for operational test and evaluation and levels of funding made available for operational test and

evaluation activities. The Secretary may comment on any report of the Director to Congress under this subsection.

¿(g) The Director shall comply with requests from Congress (or any committee of either House of Congress) for information relating to operational test and evaluation in the Department of Defense.

¿(h) The President shall include in the Budget transmitted to Congress pursuant to section 1105 of title 31 for each fiscal year a separate statement of estimated expenditures and proposed appropriations for that fiscal year for the activities of the Director of Operational Test and Evaluation in carrying out the duties and responsibilities of the Director under this section.

¿(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.

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§ 141. Inspector General

(a) * * *

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(c) The Inspector General shall be responsible for and shall oversee all investigations of procurement fraud within the Department of Defense.

¿§ 142. Assistant to the Secretary of Defense for Atomic Energy

¿(a) There is an Assistant to the Secretary of Defense for Atomic Energy, appointed by the President, by and with the advice and consent of the Senate.

¿(b) The Assistant to the Secretary shall advise the Secretary of Defense and the Nuclear Weapons Council on nuclear energy and nuclear weapons matters.

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CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

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§ 173. Advisory personnel

(a) * * *

(b) A person who serves as a member of a committee may not be paid for that service while holding another position or office under the United States for which he receives compensation. ¿Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary determines. *Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.*

§ 174. Advisory personnel: research and development

(a) * * *

(b) A person who serves as a member of such a committee or panel may not be paid for that service while holding another position or office under the United States for which he receives com-

pensation. ¿Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary concerned determines. *Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.*

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§ 176. Armed Forces Institute of Pathology

(a)(1) * * *

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(3) The Board of Governors shall consist of the ¿Assistant Secretary of Defense for Health Affairs *official in the Department of Defense with principal responsibility for health affairs*, who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health and Human Services for Health, the Surgeons General of the Army, Navy, and Air Force, the ¿Chief Medical Director of the Department of Veterans Affairs *Under Secretary for Health of the Department of Veterans Affairs*, and a former Director of the Institute, as designated by the Secretary of Defense, or the designee of any of the foregoing.

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CHAPTER 9—DEFENSE BUDGET MATTERS

Sec.
221. Future-years defense program: submission to Congress; consistency in budgeting.

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¿227. Recruiting costs.

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¿§ 227. Recruiting costs

¿The Secretary of Defense shall include in the budget justification documents submitted to Congress each year in connection with the submission of the budget pursuant to section 1105 of title 31 the following matters:

¿(1) The amount requested for the recruitment of persons for enlistment or appointment into the armed forces, including—

¿(A) the personnel costs for Department of Defense personnel whose duties include—

¿(i) recruitment;

¿(ii) the management of Department of Defense personnel performing recruitment duties; or

¿(iii) supporting Department of Defense personnel in the performance of duties referred to in clause (i) or (ii);

¿(B) the cost of providing support for such personnel for the performance of those duties;

¿(C) operation and maintenance costs associated with recruitment, including the costs of paid advertising and facilities;

¿(D) the costs of incentives, including—

¿(i) amounts paid under sections 302d, 308a, 308c, 308f, 308g, 308h (for a first enlistment), and 308i of title 37, relating to bonuses and other incentives;

¿(ii) amounts deposited in the Department of Defense Education Benefits Fund pursuant to section 2006(g) of this title; and

¿(iii) payments under the provisions of chapters 105, 107, and 109 of this title and chapter 30 of title 38; and

¿(E) costs associated with military entrance processing.

¿(2) The appropriation accounts from which such costs are to be paid.

¿(3) The estimated average total annual cost of recruiting a person for enlistment or appointment into the armed forces for the fiscal year covered by the budget, determined and shown separately for—

¿(A) each armed force;

¿(B) the active component of each armed force;

¿(C) each of the reserve components of each armed force; and

¿(D) for all of the armed forces.

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CHAPTER 18—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

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§ 372. Use of military equipment and facilities

The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes. *Assistance provided under this section may include training facilities, sensors, protective clothing, antidotes, and other materials and expertise of the Department of Defense appropriate for use by a Federal, State, or local law enforcement agency in preparing for or responding to an emergency involving chemical or biological agents if the Secretary determines that the materials or services to be provided are not reasonably available from another source.*

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CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE

SUBCHAPTER I—HUMANITARIAN ASSISTANCE

Sec.

401. Humanitarian and civic assistance provided in conjunction with military operations.

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¿403. International peacekeeping activities.

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405. Placement of United States forces under United Nations command or control: limitation.

406. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation.

§ 401. Humanitarian and civic assistance provided in conjunction with military operations

(a)(1) * * *

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(4) The Secretary of Defense shall ensure that no member of the armed forces, while providing assistance under this section that is described in subsection (e)(5)—

(A) engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(B) provides such assistance as part of a military operation that does not involve the armed forces.

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(e) In this section, the term "humanitarian and civic assistance" ¿means— *means:*

(1) ¿medical *Medical*, dental, and veterinary care provided in rural areas of a country¿; .

(2) ¿construction *Construction* of rudimentary surface transportation systems¿; .

(3) ¿well *Well* drilling and construction of basic sanitation facilities¿; and .

(4) ¿rudimentary *Rudimentary* construction and repair of public facilities.

(5) Detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines.

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¿§ 403. International peacekeeping activities

¿(a) AUTHORITY.—To the extent provided in defense authorization Acts and appropriations Acts, the Secretary of Defense may furnish assistance in support of international peacekeeping activities of the United Nations or any regional organization of which the United States is a member.

¿(b) FORMS OF ASSISTANCE.—Assistance provided under subsection (a) may include funds, supplies, services, and equipment. Any funds so provided shall be derived from amounts available to the Department of Defense for the fiscal year for which the assistance is provided.

¿(c) LIMITATIONS.—Funds may be provided as assistance pursuant to subsection (a) for a fiscal year—

¿(1) only if funds available to the Department of State for that fiscal year for contributions for international peacekeeping activities are insufficient or otherwise unavailable to meet the United States' fair share of costs for international peacekeeping activities, as determined by the President;

¿(2) only to the extent that such funds are required to meet unexpected and urgent requirements;

¿(3) only to the extent that the United States' fair share of such costs exceeds the amount that the President requests Congress to appropriate for the Department of State for such fiscal year for international peacekeeping activities;

¿(4) only if the United States has received written commitments that the United States will be fully and promptly reimbursed by the United Nations or the regional organization involved for outstanding obligations incurred through an arrangement designated under United Nations practices as a "letter of assist" or a similar arrangement for logistics support, supplies, services, and equipment provided by the Department of Defense on a contract basis to the United Nations or the regional organization involved; and

¿(5) only if the Department of Defense will receive any reimbursement to the United States from the United Nations or a regional organization for outstanding obligations incurred through an arrangement designated under United Nations practices as a "letter of assist" or a similar arrangement for logistics support, supplies, services, and equipment provided by the Department of Defense on a contract basis to the United Nations or the regional organization involved, unless such reimbursement to the Department of Defense is otherwise precluded by law.

¿(d) CONSULTATION.—The Secretary of Defense shall consult with the Secretary of State before furnishing any assistance pursuant to subsection (a).

¿(e) DETERMINATIONS REQUIRED.—No assistance may be furnished pursuant to subsection (a) unless the Secretary of Defense certifies to Congress that the provision of such assistance will not adversely affect the military preparedness of the United States.

¿(f) ADVANCE NOTICE TO CONGRESS.—Not less than 30 days before obligating any funds for purposes of subsection (a), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall—

¿(1) specify the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation;

¿(2) specify the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds; and

¿(3) include the certification required by subsection (e).

¿(g) DEFINITION.—In this section, the term "defense authorization Act" means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.

¿(h) TERMINATION.—The authority of the Secretary of Defense to furnish assistance under subsection (a) shall expire on September 30, 1994.

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§ 405. Placement of United States forces under United Nations command or control: limitation

(a) LIMITATION.—Except as provided in subsections (b) and (c), funds appropriated or otherwise made available for the Department of Defense may not be obligated or expended for activities of any element of the Armed Forces that after the date of the enactment of this section is placed under United Nations command or control, as defined in subsection (f).

(b) EXCEPTION FOR PRESIDENTIAL CERTIFICATION.—(1) Subsection (a) shall not apply in the case of a proposed placement of an element of the Armed Forces under United Nations command or control if the President, not less than 15 days before the date on which such United Nations command or control is to become effective (or as provided in paragraph (2)), meets the requirements of subsection (d).

(2) If the President certifies to Congress that an emergency exists that precludes the President from meeting the requirements of subsection (d) 15 days before placing an element of the Armed Forces under United Nations command or control, the President may place such forces under such command or control and meet the requirements of subsection (d) in a timely manner, but in no event later than 48 hours after such command or control becomes effective.

(c) ADDITIONAL EXCEPTIONS.—

(1) EXCEPTION FOR AUTHORIZATION BY LAW.—Subsection (a) shall not apply in the case of a proposed placement of any element of the Armed Forces under United Nations command or control if the Congress specifically authorizes by law that particular placement of United States forces under United Nations command or control.

(2) EXCEPTION FOR NATO OPERATIONS.—Subsection (a) shall not apply in the case of a proposed placement of any element of the armed forces in an operation conducted by the North Atlantic Treaty Organization.

(d) PRESIDENTIAL CERTIFICATIONS.—The requirements referred to in subsection (b)(1) are that the President submit to Congress the following:

(1) Certification by the President that—

(A) such a United Nations command or control arrangement is necessary to protect national security interests of the United States;

(B) the commander of any unit of the Armed Forces proposed for placement under United Nations command or control will at all times retain the right—

(i) to report independently to superior United States military authorities; and

(ii) to decline to comply with orders judged by the commander to be illegal, militarily imprudent, or beyond the mandate of the mission to which the United States agreed with the United Nations, until such time as that commander receives direction from superior United States military authorities with respect to the orders that the commander has declined to comply with;

(C) any element of the Armed Forces proposed for placement under United Nations command or control will at all

times remain under United States administrative command for such purposes as discipline and evaluation; and

(D) the United States will retain the authority to withdraw any element of the Armed Forces from the proposed operation at any time and to take any action it considers necessary to protect those forces if they are engaged.

(2) A report setting forth the following:

(A) A description of the national security interests that require the placement of United States forces under United Nations command or control.

(B) The mission of the United States forces involved.

(C) The expected size and composition of the United States forces involved.

(D) The incremental cost to the United States of participation in the United Nations operation by the United States forces which are proposed to be placed under United Nations command or control.

(E) The precise command and control relationship between the United States forces involved and the United Nations command structure.

(F) The precise command and control relationship between the United States forces involved and the commander of the United States unified command for the region in which those United States forces are to operate.

(G) The extent to which the United States forces involved will rely on non-United States forces for security and self-defense and an assessment on the ability of those non-United States forces to provide adequate security to the United States forces involved.

(H) The timetable for complete withdrawal of the United States forces involved.

(e) CLASSIFICATION OF REPORT.—A report under subsection (d) shall be submitted in unclassified form and, if necessary, in classified form.

(f) UNITED NATIONS COMMAND OR CONTROL.—For purposes of this section, an element of the Armed Forces shall be considered to be placed under United Nations command or control if—

(1) that element is under the command or operational control of an individual acting on behalf of the United Nations for the purpose of international peacekeeping, peacemaking, peace-enforcing, or similar activity that is authorized by the Security Council under chapter VI or VII of the Charter of the United Nations; and

(2) the senior military commander of the United Nations force or operation—

(A) is a foreign national or is a citizen of the United States who is not a United States military officer serving on active duty; or

(B) is a United States military officer serving on active duty but—

(i) that element of the armed forces is under the command or operational control of a subordinate commander who is a foreign national or a citizen of the

United States who is not a United States military officer serving on active duty; and

(ii) that senior military commander does not have the authority—

(I) to dismiss any subordinate officer in the chain of command who is exercising command or operational control over United States forces and who is a foreign national or a citizen of the United States who is not a United States military officer serving on active duty;

(II) to establish rules of engagement for United States forces involved; and

(III) to establish criteria governing the operational employment of United States forces involved.

(g) INTERPRETATION.—Nothing in this section may be construed—

(1) as authority for the President to use any element of the armed forces in any operation;

(2) as authority for the President to place any element of the armed forces under the command or operational control of a foreign national; or

(3) as an unconstitutional infringement on the authority of the President as commander-in-chief.

§ 406. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

(1) for the costs of a United Nations peacekeeping activity; or

(2) for any United States arrearage to the United Nations.

(b) APPLICATION OF PROHIBITION.—The prohibition in subsection (a) applies to voluntary contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.

SUBCHAPTER II—CIVIL-MILITARY COOPERATION

Sec.
¿410. Civil-Military Cooperative Action Program.

¿§ 410. Civil-Military Cooperative Action Program

¿(a) ESTABLISHMENT.—The Secretary of Defense shall establish a program to be known as the "Civil-Military Cooperative Action Program". Under the program, the Secretary may, in accordance with other applicable law, use the skills, capabilities, and resources of the armed forces to assist civilian efforts to meet the domestic needs of the United States.

¿(b) PROGRAM OBJECTIVES.—The program shall have the following objectives:

¿(1) To enhance individual and unit training and morale in the armed forces through meaningful community involvement of the armed forces.

¿(2) To encourage cooperation between civilian and military sectors of society in addressing domestic needs.

¿(3) To advance equal opportunity.

¿(4) To enrich the civilian economy of the United States through education, training, and transfer of technological advances.

¿(5) To improve the environment and economic and social conditions.

¿(6) To provide opportunities for disadvantaged citizens of the United States.

¿(c) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils on civil-military cooperation at the regional, State, and local levels, as appropriate, in order to obtain recommendations for projects and activities under the program and guidance for the program from persons who are knowledgeable about regional, State, and local conditions and needs.

¿(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

¿(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

¿(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under the program. The regulations shall include the following:

¿(1) Rules governing the types of assistance that may be provided.

¿(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

¿(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

¿(A) meets a valid need; and

¿(B) does not duplicate other available public services.

¿(4) Procedures for the provision of assistance in a manner that does not compete with the private sector.

¿(5) Procedures to minimize the extent to which Department of Defense resources are applied exclusively to the program.

¿(6) Standards to ensure that assistance is provided under this section in a manner that is consistent with the military mission of the units of the armed forces involved in providing the assistance.

¿(e) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed as authorizing—

¿(1) the use of the armed forces for civilian law enforcement purposes; or

¿(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law.

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CHAPTER 22—MISCELLANEOUS STUDIES AND REPORTS

Sec.
451. Racial and ethnic issues; biennial survey; biennial report.
452. Quarterly readiness reports.

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§ 452. Quarterly readiness reports

(a) REQUIREMENT.—Not later than 30 days after the end of each calendar-year quarter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on military readiness. The report for any quarter shall be based on assessments that are provided during that quarter—

(1) to any council, committee, or other body of the Department of Defense (A) that has responsibility for readiness oversight, and (B) the membership of which includes at least one civilian officer in the Office of the Secretary of Defense at the level of Assistant Secretary of Defense or higher;

(2) by senior civilian and military officers of the military departments and the commanders of the unified and specified commands; and

(3) as part of any regularly established process of periodic readiness reviews for the Department of Defense as a whole.

(b) MATTERS TO BE INCLUDED.—Each such report—

(1) shall specifically describe identified readiness problems or deficiencies and planned remedial actions; and

(2) shall include the key indicators and other relevant data related to the identified problem area or deficiency.

(c) CLASSIFICATION OF REPORTS.—Reports under this section shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.

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PART II—PERSONNEL

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Chap. Sec.
31. Enlistments 501

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76. Missing Persons 1501

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CHAPTER 33A—APPOINTMENT, PROMOTION, AND INVOLUNTARY SEPARATION AND RETIREMENT FOR MEMBERS ON THE WARRANT OFFICER ACTIVE-DUTY LIST

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§ 581. Selective retirement

(a) * * *

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(e) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons.

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CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

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SUBCHAPTER IV—CONTINUATION ON ACTIVE DUTY AND SELECTIVE EARLY RETIREMENT

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§ 638. Selective early retirement

(a) * * *
(b)(1) * * *

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(3) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section or section 638a of this title in order to prevent a personal hardship to the officer or for other humanitarian reasons.

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CHAPTER 37—GENERAL SERVICE REQUIREMENTS

Sec.
651. Members: required service.

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655. Designation of persons having interest in status of missing persons.

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§ 655. Designation of persons having interest in status of missing persons

(a) The Secretary concerned shall, upon the enlistment or appointment of a person in the Army, Navy, Air Force, or Marine Corps, require that the person specify in writing the person or persons, if any, to whom information on the whereabouts or status of the member shall be provided if such whereabouts or status are investigated under chapter 76 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.

(b) The Secretary concerned shall, upon the request of a member, permit the member to revise the person or persons specified by the

member under subsection (a) at any time. Any such revision shall be in writing.

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CHAPTER 39—ACTIVE DUTY

Sec.
671. Members not to be assigned outside United States before completing training.

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691. Permanent end strength levels to support two major regional contingencies.

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§ 691. Permanent end strength levels to support two major regional contingencies

(a) The end strengths specified in subsection (b) are the minimum strengths necessary to enable the armed forces to fulfill a national defense strategy calling for the United States to be able to successfully conduct two nearly simultaneous major regional contingencies.

(b) Unless otherwise provided by law, the number of members of the armed forces (other than the Coast Guard) on active duty at the end of any fiscal year shall be not less than the following:

(1) For the Army, 495,000.

(2) For the Navy, 395,000.

(3) For the Marine Corps, 174,000.

(4) For the Air Force, 381,000.

(c) No funds appropriated to the Department of Defense may be used to reduce the active duty end strengths for the armed forces below the levels specified in subsection (b) unless the Secretary of Defense submits to Congress notice of the proposed lower end strength levels and a justification for those levels. No action may then be taken to reduce such end strengths below the levels specified in subsection (b) until the end of the six-month period beginning on the date of the submission of such notification to Congress.

(d) The number of members of the armed forces on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

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CHAPTER 47—UNIFORM CODE OF MILITARY JUSTICE

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SUBCHAPTER VII—TRIAL PROCEDURE

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§ 847. Art. 47. Refusal to appear or testify

(a) * * *

(b) Any person who commits an offense named in subsection (a) shall be tried on information in a United States district court or in a court of original criminal jurisdiction in any of the Territories, Commonwealths, or possessions of the United States, and jurisdiction is conferred upon those courts for that purpose. Upon conviction, such a person ¿shall be punished by a fine of not more than

$500, or imprisonment for not more than six months, or both *shall be fined or imprisoned, or both, at the court's discretion.*

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SUBCHAPTER VIII—SENTENCES

855. 55. Cruel and unusual punishments prohibited.

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857. 57. Effective date of sentences.
857a. 57a. Sentences: forfeiture of pay and allowances during confinement by sentence of court-martial.

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§ 857a. Art. 57a. Sentences: forfeiture of pay and allowances during confinement by sentence of court-martial

(a) A court-martial sentence, as announced by the sentencing authority, that includes confinement shall result in the forfeiture of pay and allowances due that member during the period of the confinement or while on parole. The forfeiture shall be effective on the date on which the sentence is announced. The percentage of pay and allwances forfeited shall be the maximum percentage that the court-martial could have directed as part of the sentence.

(b) If the sentence of a member who forfeits pay and allowances under subsection (a) is set aside or disapproved or, as finally approved, does not provide for confinement, the member shall be paid the pay and allowances which the member would have been paid, but for the forfeiture, for the period during which the forfeiture was in effect.

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SUBCHAPTER IX—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

§ 860. Art. 60. Action by the convening authority

(a) * * *

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(d) In a case involving an accused who has dependents and in which the sentence, as approved, includes confinement, the convening authority or other person taking action under this section may waive some or all of the forfeiture of pay and allowances otherwise required by section 857a of this title (article 57a). Any amount of pay and allowances payable only by reason of such a waiver shall be paid, as the convening authority or other person taking action under this section directs, to the dependents of the accused.

¿(d) *(e)* Before acting under this section on any general court-martial case or any special court-martial case that includes a bad-conduct discharge, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of his staff judge advocate or legal officer. The convening authority or other person taking action under this section shall refer the record of trial to his staff judge advocate or legal officer, and the staff judge advocate or legal officer shall use such

record in the preparation of this recommendation. The recommendation of the staff judge advocate or legal officer shall include such matters as the President may prescribe by regulation and shall be served on the accused, who may submit any matter in response under subsection (b). Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object thereto.

¿(e) *(f)*(1) The convening authority or other person taking action under this section, in his sole discretion, may order a proceeding in revision or a rehearing.

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§ 866. Art. 66. Review by Court of Criminal Appeals

(a) * * *

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(f) The Judge Advocates General shall prescribe uniform rules of procedure for ¿Courts of Military Review *Courts of Criminal Appeals* and shall meet periodically to formulate policies and procedure in regard to review of court-martial cases in the offices of the Judge Advocates General and by ¿Courts of Military Review *Courts of Criminal Appeals.*

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§ 870. Art. 70. Appellate counsel

(a) * * *

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(c) Appellate defense counsel shall represent the accused before the Court of Criminal Appeals, the Court of Appeals for the Armed Forces, or *(except as provided in subsection (f))* the Supreme Court—

(1) when requested by the accused;

(2) when the United States is represented by counsel; or

(3) when the Judge Advocate General has sent the case to the Court of Appeals for the Armed Forces.

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(f) Representation of the accused by appellate defense counsel in preparation of a petition to the Supreme Court for a writ of certiorari shall be at the discretion of the appellate defense counsel.

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SUBCHAPTER X—PUNITIVE ARTICLES

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¿§ 895. Art. 95. Resistance, breach of arrest, and escape

¿Any person subject to this chapter who resists apprehension or breaks arrest or who escapes from custody or confinement shall be punished as a court-martial may direct.

§ 895. Art. 95. Resistance, flight, breach of arrest, and escape

Any person subject to this chapter who—

(1) resists apprehension;
(2) flees from apprehension;
(3) breaks arrest; or
(4) escapes from custody or confinement;
shall be punished as a court-martial may direct.

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§ 920. Art. 120. Rape and carnal knowledge

(a) * * *

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¿(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a female not his wife who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person—
(1) who is not that person's spouse; and
(2) who has not attained the age of sixteen years;
is guilty of carnal knowledge and shall be punished as a court-martial may direct.

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(d) In a prosecution under subsection (b), it is a defense that—
(1) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and
(2) the accused reasonably believed that that person had at the time of the alleged offense attained the age of sixteen years.

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SUBCHAPTER XI—MISCELLANEOUS PROVISIONS

§ 937. Art. 137. Articles to be explained

(a)(1) The sections of this title (articles of the Uniform Code of Military Justice) specified in paragraph (3) shall be carefully explained to each enlisted member at the time of (or ¿within six days *within fourteen days* after)—
(A) the member's initial entrance on active duty; or
(B) the member's initial entrance into a duty status with a reserve component.

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SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

§ 944. Art. 144. Procedure

The United States Court of Appeals for the Armed Forces may prescribe its rules of procedure and may determine the number of judges required to constitute a quorum. *However, no person may appear before the court (whether on a brief or in person) other than an attorney who is admitted to practice before the court or who is*

authorized to appear by the court in a particular case (except that the court may permit a third-year law student certified under a State rule for practical training of law students to appear as an amicus curiae).

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CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
971. Service credit: officers may not count enlisted service performed while serving as cadet or midshipman.
¿972. Enlisted members: required to make up time lost.
972. Members: effect of time lost.

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¿§ 972. Enlisted members: required to make up time lost

§ 972. Members: effect of time lost

(a) ENLISTED MEMBERS REQUIRED TO MAKE UP TIME LOST.—An enlisted member of an armed force who—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;

¿(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;

¿(4) is confined for more than one day under a sentence that has become final; or

(3) is confined by military or civilian authorities for more than one day before, during, or after trial; or

¿(5) *(4)* is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term for which he was enlisted or inducted.

(b) OFFICERS NOT ALLOWED SERVICE CREDIT FOR TIME LOST.—In the case of an officer of an armed force who after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;

(3) is confined by military or civilian authorities for more than one day before, during, or after trial; or

(4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

the period of such desertion, absence, confinement, or inability to perform duties may not be counted in computing, for any purpose

other than basic pay under section 205 of title 37, the officer's length of service.

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CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
1031. Administration of oath.
1032. Disability and death compensation: dependents of members held as captives.
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1044c. Military advance medical directives: requirement for recognition by States.

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§ 1044c. Military advance medical directives: requirement for recognition by States

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—A military advance medical directive—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State; and

(2) shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned.

(b) MILITARY ADVANCE MEDICAL DIRECTIVES.—For the purposes of this section, a military advance medical directive is any written declaration regarding future medical treatment that—

(1) is executed by a person eligible for legal assistance under section 1044(a) of this title or regulations of the Secretary concerned; and

(2) is intended—

(A) to provide, withdraw, or withhold life-prolonging procedures, including hydration and sustenance, in the event of a terminal condition or persistent vegetative state of the declarant; or

(B) to appoint another person to make health care decisions for the declarant under circumstances stated in the declaration if the declarant is determined to be incapable of making informed health care decisions.

(c) STATEMENT TO BE INCLUDED.—Under regulations prescribed by the Secretary concerned, a written declaration described in subsection (b) shall contain a statement that clearly indicates the purpose of the declaration to serve as the military advance medical directive of the declarant. However, the failure of a military advance medical directive to include such a statement shall not be construed to negate the legal effect of the directive under subsection (a).

(d) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

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§ 1056. Relocation assistance programs

(a) * * *

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¿(d) DIRECTOR.—The Secretary of Defense shall establish the position of Director of Military Relocation Assistance Programs in the office of the Assistant Secretary of Defense (Force Management and Personnel). The Director shall oversee development and implementation of the military relocation assistance programs under this section.

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§ 1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits

(a) AUTHORITY TO PAY COMPENSATION.—The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy), and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, ¿may each establish a program *shall each establish a program* to pay monthly transitional compensation in accordance with this section to dependents or former dependents of a member of the armed forces described in subsection (b).

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(d) RECIPIENTS OF PAYMENTS.—In any case ¿of a separation from active duty as described in subsection (b), the Secretary shall pay such compensation to dependents or former dependents of the former member as follows:

(1) * * *

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CHAPTER 55—MEDICAL AND DENTAL CARE

Sec.
1071. Purpose of this chapter.
1072. Definitions.

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¿1093. Restriction on use of funds for abortions.
1093. Restriction on use of funds or facilities for abortions.

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¿1100. Military Health Care Account.
1100. Defense Health Program Account.

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§ 1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days

(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

(1) * * *

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(3) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty

training, and the site is outside reasonable commuting distance from the member's residence.

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(c) A member is not entitled to benefits under ¿this section *subsection (b)* if the injury, illness, or disease, or aggravation of an injury, illness, or disease described in subsection (a)(2), is the result of the gross negligence or misconduct of the member.

(d)(1) The Secretary of the Army shall provide to members of the Selected Reserve of the Army who are assigned to units scheduled for deployment within 75 days after mobilization the following medical and dental services:

(A) An annual medical screening.

(B) For members who are over 40 years of age, a full physical examination not less often than once every two years.

(C) An annual dental screening.

(D) The dental care identified in an annual dental screening as required to ensure that a member meets the dental standards required for deployment in the event of mobilization.

(2) The services provided under this subsection shall be provided at no cost to the member.

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§ 1079. Contracts for medical care for spouses and children: plans

(a) To assure that medical care is available for dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title, of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except that—

(1) with respect to dental care, only that care required as a necessary adjunct to medical or surgical treatment may be provided;

¿(2) routine physical examinations and immunizations of dependents over two years of age may only be provided when required in the case of dependents who are traveling outside the United States as a result of a member's duty assignment and such travel is being performed under orders issued by a uniformed service, except that pap smears and mammograms may be provided on a diagnostic or preventive basis;

(2) consistent with such regulations as the Secretary of Defense may prescribe regarding the content of health promotion and disease prevention visits, the schedule of pap smears and mammograms, and the types and schedule of immunizations—

(A) for dependents under six years of age, both health promotion and disease prevention visits and immunizations may be provided; and

(B) for dependents six years of age or older, health promotion and disease prevention visits may be provided in

connection with immunizations or with diagnostic or preventive pap smears and mammograms;

* * * * * * *

(h)¿(1) Payment for a charge for services by an individual health-care professional (or other noninstitutional health-care provider) for which a claim is submitted under a plan contracted for under subsection (a) may be denied only to the extent that the charge exceeds the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period. *(1) Payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) may not exceed the lesser of—*

(A) an amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during a 12-month base period; or

(B) an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) For the purposes of paragraph (1)*(A)*, the 80th percentile of charges shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries, and the base period shall be a period of twelve calendar months. The Secretary of Defense shall adjust the base period as frequently as he considers appropriate.

(3) For the purposes of paragraph (1)(B), the appropriate payment amount shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries.

(4) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to provide for such exceptions to the payment limitations under paragraph (1) as the administering Secretaries determine to be necessary to assure that covered beneficiaries retain adequate access to health care services. Such exceptions may include the payment of amounts greater than the amount allowed under paragraph (1) when enrollees in managed care programs obtain covered emergency services from nonparticipating providers. To transition from the payment methods in effect before the date of the enactment of this paragraph to the methodology required by paragraph (1), the amount allowable for any service may not be reduced by more than 15 percent from the amount allowed for the same service during the immediately preceding 12-month period (or other period as established by the Secretary of Defense).

(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to establish limitations (similar to those limitations established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) on beneficiary liability for charges of an individual health care professional (or other noninstitutional health care provider).

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§ 1086. Contracts for health benefits for certain members, former members, and their dependents

(a) * * *

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(d)(1) * * *

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(4) The administering Secretaries shall develop a mechanism by which persons described in paragraph (1) who satisfy only the criteria specified in subparagraphs (A) and (B) of paragraph (2), but not subparagraph (C) of such paragraph, are promptly notified of their ineligibility for health benefits under this section. The administering Secretaries shall consult with the Secretary of Health and Human Services and the Health Care Financing Administration regarding a method to promptly identify persons requiring notice under this subsection.

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§ 1093. Restriction on use of funds *or facilities* for abortions

Funds available to the Department of Defense, *and medical treatment facilities or other facilities of the Department of Defense,* may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

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§ 1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers

(a) * * *

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(k)(1) To improve the administration of this section and sections 1079(j)(1) and 1086(d) of this title, the Secretary of Defense, in consultation with the other administering Secretaries, may prescribe regulations to collect information regarding insurance, medical service, or health plans of third-party payers held by covered beneficiaries.

(2) The collection of information under regulations issued under paragraph (1) shall be conducted in the same manner as provided in section 1862(b)(5) of the Social Security Act (42 U.S.C. 1395y(b)(5)). The Secretary may provide for obtaining from the Commissioner of Social Security employment information comparable to the information provided to the Administrator of the Health Care Financing Administration pursuant to such section. Such regulations may require the mandatory disclosure of social security account numbers for all covered beneficiaries.

(3) The Secretary of Defense may disclosure relevant employment information collected under this subsection to fiscal intermediaries or other designated contractors.

(4) The Secretary of Defense may provide for contacting employers of covered beneficiaries to obtain group health plan information comparable to the information authorized to be obtained under section 1862(b)(5)(C) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)). Clause (ii) of such section regarding the imposition

of civil money penalties shall apply to the collection of information under this paragraph.

(5) Information obtained under this subsection may not be disclosed for any purpose other than to carry out the purpose of this section and sections 1079(j)(1) and 1086(d) of this title.

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§ 1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) * * *

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(c) COORDINATION WITH FACILITIES OF THE UNIFORMED SERVICES.—The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to a covered beneficiary on the basis of whether the beneficiary enrolled or declined enrollment in any program established under, or operating in connection with, any contract under this section. ¿However, the Secretary may *Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall,* as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

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(e) CHARGES FOR HEALTH CARE.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section. In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans. *Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a monthly or quarterly basis, any enrollment fee required for such participation.*

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¿§ 1100. Military Health Care Account

§ 1100. Defense Health Program Account

(a) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby established in the Department of Defense an account to be known as the "¿Military Health Care Account *Defense Health Program Account*". All sums appropriated to carry out the functions of the Secretary of Defense with respect to ¿the Civilian Health and Medical Program of the Uniformed Services *medical and health care programs of the Department of Defense* shall be appropriated to the account.

¿(2) Amounts appropriated to the account shall remain available until obligated or expended under subsection (b) or (c).

(2) Three percent of the funds appropriated annually for the operation and maintenance of the programs and activities authorized by this chapter shall remain available for obligation until the end of the fiscal year following the fiscal year for which the funds were appropriated. This paragraph shall not apply for a fiscal year to the extent that a provision of law specifically refers to this paragraph and specifies that this paragraph shall not apply for that fiscal year.

(b) OBLIGATION OF AMOUNTS FROM ACCOUNT BY SECRETARY OF DEFENSE.—The Secretary of Defense may obligate or expend funds from the account for purposes of ¿entering into a contract *conducting programs and activities under this chapter, including contracts entered into* under section 1079, 1086, 1092, or 1097 of this title, to the extent amounts are available in the account.

¿(c) ALLOCATION OF AMOUNTS IN ACCOUNT FOR PROVISION OF MEDICAL CARE BY SERVICE SECRETARIES.—(1) The Secretary of a military department shall, before the beginning of a fiscal year quarter, provide to the Secretary of Defense an estimate of the amounts necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of the Secretary for that quarter.

¿(2) The Secretary of Defense shall, subject to amounts provided in advance in appropriation Acts, make available to each Secretary of a military department the amount from the account that the Secretary of Defense determines is necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of such Secretary for that quarter.

¿(d) EXPENDITURE OF AMOUNTS FROM ACCOUNT BY SERVICE SECRETARIES.—The Secretary of a military department shall provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for a fiscal year quarter from amounts appropriated to the Secretary and from amounts from the account made available for that quarter to the Secretary by the Secretary of Defense. If the Secretary of a military department exhausts the amounts from the account made available to the Secretary for a fiscal year quarter, the Secretary shall transfer to the account from amounts appropriated to the Secretary an amount sufficient to provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for the remainder of the fiscal year quarter.

¿(e) *(c)* REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

¿(f) DEFINITIONS.—In this section:

¿(1) The term "account" means the Military Health Care Account established in subsection (a).

¿(2) The term "program" means the Civilian Health and Medical Program of the Uniformed Services.

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CHAPTER 59—SEPARATION

Sec.
1161. Commissioned officers: limitations on dismissal.

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¿1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling.
1177. Members infected with HIV–1 virus: mandatory discharge or retirement.

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¿§ 1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling

¿(a) REQUIRED SEPARATION.—(1) Subject to paragraph (2), a member of the armed forces who is classified as permanently nonworldwide assignable due to a medical condition shall (except as provided in subsection (c)) be separated.

¿(2) Paragraph (1) shall not be in effect in the case of any of the armed forces if the Secretary concerned determines that the retention of permanently nonworldwide assignable members would not adversely affect the ability of that service to carry out its mission.

¿(3) A separation under paragraph (1) shall be made on a date determined by the Secretary concerned, which (except as provided in subsection (b)(2)) shall be as soon as practicable after the date on which the determination is made that the member should be so classified and not later than the last day of the twelfth month beginning after that date.

¿(b) FORM OF SEPARATION.—(1) If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged.

¿(2) In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provison of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

¿(c) EXCEPTIONS.—The Secretary concerned may waive subsection (a) with respect to an individual member of the armed forces under the jurisdiction of that Secretary if the Secretary de-

termines that there are circumstances that warrant the retention of that member. Such circumstances may include—

¿(1) consideration that the medical condition making the member permanently nonworldwide assignable was incurred in combat or otherwise as the result of an action of the member for which the member received a decoration or other recognition for personal bravery;

¿(2) consideration that the member has a specific proficiency or skill that is vital to the national security; and

¿(3) any other circumstance that the Secretary considers to be for the good of the service.

¿(d) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

¿(e) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

§ 1177. Members infected with HIV–1 virus: mandatory discharge or retirement

(a) MANDATORY SEPARATION.—A member of the armed forces who is HIV-positive shall be separated. Such separation shall be made on a date determined by the Secretary concerned, which shall be as soon as practicable after the date on which the determination is made that the member is HIV-positive and not later than the last day of the sixth month beginning after such date.

(b) FORM OF SEPARATION.—If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged. The characterization of the service of the member shall be determined without regard to the determination that the member is HIV-positive.

(c) DEFERRAL OF SEPARATION FOR MEMBERS IN 18-YEAR RETIREMENT SANCTUARY.—In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

(d) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

(e) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in

writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

(f) HIV-POSITIVE MEMBERS.—A member shall be considered to be HIV-positive for purposes of this section if there is serologic evididence that the member is infected with the virus known as Human Immunodeficiency Virus-1 (HIV–1), the virus most commonly associated with the acquired immune deficiency syndrome (AIDS) in the United States. Such serologic evidence shall be considered to exist if there is a reactive result given by an enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot) on two separate samples. Any such serologic test must be one that is approved by the Food and Drug Administration.

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CHAPTER 61—RETIREMENT OR SEPARATION FOR PHYSICAL DISABILITY

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§ 1216. Secretaries: powers, functions, and duties

(a) * * *

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(d) The Secretary concerned may not, with respect to any member who is a general officer or flag officer or is a medical officer being processed for retirement under any provisions of this title by reason of age or length of service—

(1) * * *

* * * * * * *

by reason of unfitness to perform the duties of his office, grade, rank, or rating unless the determination of the Secretary concerned with respect to unfitness is first approved by the Secretary of Defense on the recommendation of the ¿Assistant Secretary of Defense for Health Affairs *official in the Department of Defense with principal responsibility for health affairs.*

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CHAPTER 71—COMPUTATION OF RETIRED PAY

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§ 1405. Years of service

(a) * * *

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(c) EXCLUSION OF TIME REQUIRED TO BE ¿MADE UP.—Time *MADE UP OR EXCLUDED.—(1) Time* required to be made up by an enlisted member of the Army or Air Force under section 972*(a)* of this title, *or required to be made up by an enlisted member of the Navy, Marine Corps, or Coast Guard under that section with re-*

spect to a period of time after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995, may not be counted in determining years of service under subsection (a).

(2) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

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CHAPTER 75—DEATH BENEFITS

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§ 1481. Recovery, care, and disposition of remains: decedents covered

(a) The Secretary concerned may provide for the recovery, care, and disposition of the remains of the following persons:

(1) Any Regular of an armed force, or member of an armed force without component, under his jurisdiction who dies while on active duty.

(2) A member of a reserve component of an armed force who dies while—

(A) on active duty;

(B) performing inactive-duty training;

(C) performing authorized travel directly to or from active duty or inactive-duty training; ¿or

(D) remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, and the site is outside reasonable commuting distance from the member's residence; or

¿(D) *(E)* hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training.

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CHAPTER 76—MISSING PERSONS

Sec.
1501. System for accounting for missing persons.
1502. Missing persons: initial report.
1503. Initial inquiry.
1504. Subsequent inquiry.
1505. Further review.
1506. Personnel files.
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§ 1501. System for accounting for missing persons

(a) OFFICE FOR MISSING PERSONS.—The Secretary of Defense shall establish within the Office of the Secretary of Defense an office to be responsible for the policy, control, and oversight of the entire process for investigation and recovery related to persons covered by subsection (c). In carrying out the responsibilities of that office, the head of the office shall coordinate the efforts of the office with those

of other departments and agencies of the Government and other elements of the Department of Defense for such purposes and shall be responsible for the coordination for such purposes within the Department of Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

(b) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly through the Department of Defense, for—

(A) the determination of the status of persons described in subsection (c); and

(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

(2) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

(c) COVERED PERSONS.—This chapter applies to the following persons:

(1) Any member of the Army, Navy, Air Force, or Marine Corps on active duty who, during a period or war or national emergency or any other period of hostilities specified by the Secretary of Defense for the purposes of this section, disappears in the theater of such hostilities (except under circumstances suggesting that the disappearance is voluntary).

(2) Any civilian employee of the Department of Defense (including an employee of a contractor of the Department of Defense) who, during a period described in paragraph (1), disappears in the theater of such hostilities (except under circumstances suggesting that the disappearance is voluntary) while serving with or accompanying the Army, Navy, Air Force, or Marine Corps in the field during such period.

(d) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of any person described in subsection (c) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary of Defense shall treat a individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

§ 1502. Missing persons: initial report

(a) PRELIMINARY ASSESSMENT AND RECOMMENDATION BY COMMANDER.—After receiving information that the whereabouts or status of a person covered by this chapter is uncertain and that the absence of the person may be involuntary, the commander of the unit, facility, or area to or in which the person is assigned shall make a preliminary assessment of the circumstances. If, as a result of that assessment, the commander concludes that the person is missing, the commander shall—

(1) recommend that the person be placed in a missing status; and

(2) submit that recommendation to the commander of the unified command for that area in accordance with procedures prescribed under section 1501(b) of this title.

(b) FORWARDING OF RECORDS.—The commander making the initial assessment shall (in accordance with procedures prescribed under section 1501(b) of this title) safeguard and forward for official use any information relating to the whereabouts or status of the person that result from the preliminary assessment or from actions taken to locate the person.

§ 1503. Initial inquiry

(a) APPOINTMENT OF BOARD.—Not later than ten days after receiving notification under section 1502(a)(2) of this title that a person has been recommended for placement in a missing status, the commander of the unified command having responsibility for the area in which the disappearance occurred shall appoint a board to conduct an inquiry into the whereabouts and status of the person.

(b) INQUIRIES INVOLVING MORE THAN ONE MISSING PERSON.—If it appears to the commander who appoints a board under this section that the absence or missing status of two or more persons is factually related, the commander may appoint a single board under this section to conduct the inquiry into the whereabouts or status of all such persons.

(c) COMPOSITION.—(1) A board appointed under this section shall consist of at least one individual described in paragraph (2) who has experience with and understanding of military operations or activities similar to the operation or activity in which the person disappeared.

(2) An individual referred to in paragraph (1) is the following:

(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.

(B) A civilian, in the case of an inquiry with respect to a civilian employee of the United States or of a contractor of the Department of Defense.

(3) An individual may be appointed as a member of a board under this section only if the individual has a security clearance that affords the member access to all information relating to the whereabouts and status of the missing persons covered by the inquiry.

(d) DUTIES OF BOARD.—A board appointed to conduct an inquiry into the whereabouts or status of a missing person under this section shall—

(1) collect, develop, and investigate all facts and evidence relating to the disappearance, whereabouts, or status of that person;

(2) collect appropriate documentation of the facts and evidence covered by the investigation;

(3) analyze the facts and evidence, make findings based on that analysis, and draw conclusions as to the current whereabouts and status of the person; and

(4) with respect to each person covered by the inquiry, recommend to the commander who appointed the board that—

(A) the person be placed in a missing status; or

(B) the person be declared to have deserted, to be absent without leave, or to be dead.

(e) INQUIRY PROCEEDINGS.—During the proceedings of an inquiry under this section, a board shall—

(1) collect, record, and safeguard all facts, documents, statements, photographs, tapes, messages, maps, sketches, reports, and other information (whether classified or unclassified) relating to the whereabouts or status of each person covered by the inquiry;

(2) gather information relating to actions taken to find the person, including any evidence of the whereabouts or status of the person arising from such actions; and

(3) maintain a record of its proceedings.

(f) COUNSEL FOR MISSING PERSON.—(1) The commander appointing a board to conduct an inquiry under this section shall appoint counsel to represent each person covered by the inquiry, or, in the case described by 1503(c) of this title, one counsel to represent all persons covered by the inquiry. Counsel appointed under this paragraph may be referred to as "missing person's counsel".

(2) To be appointed as a missing person's counsel, a person must—

(A) have the qualifications specified in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice) for trial counsel or defense counsel detailed for a general court-martial; and

(B) have a security clearance that affords the counsel access to all information relating to the whereabouts or status of the person or persons covered by the inquiry.

(3) A missing person's counsel—

(A) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

(B) shall observe all official activities of the board during such proceedings;

(C) may question witnesses before the board; and

(D) shall monitor the deliberations of the board; and

(4) A missing person's counsel shall review the report of the board under subsection (i) and submit to the commander who appointed the board an independent review of that report. That review shall be made an official part of the record of the board.

(g) ACCESS TO PROCEEDINGS.—The proceedings of a board during an inquiry under this section shall be closed to the public (including, with respect to any missing person covered by the inquiry, the primary next of kin, other members of the immediate family, and any other previously designated person designated under section 655 of this title).

(h) RECOMMENDATION ON STATUS OF MISSING PERSONS.—(1) Upon completion of its inquiry, a board appointed under this section shall make a recommendation to the commander who appointed the board as to the appropriate determination of the current whereabouts or status of each person whose whereabouts were covered by the inquiry.

(2)(A) A board may not recommend under paragraph (1) that a person be declared dead unless the board determines that the evidence before it established conclusive proof of the death of the person.

(B) In this paragraph, the term "conclusive proof of death" means evidence establishing that death is the only credible explanation for the absence of the person.

(i) REPORT.—(1) A board appointed under this section shall submit to the commander who appointed it a report on the inquiry carried out by the board. The report shall include—

(A) a discussion of the facts and evidence considered by the board in the inquiry;

(B) the recommendation of the board under subsection (h) with respect to each person covered by the report; and

(C) disclosure of whether classified documents and information were reviewed by the board or were otherwise used by the board in forming recommendations under subparagraph (B).

(2) A report submitted under this subsection may not be made public until one year after the date on which the report is submitted.

(j) ACTIONS BY REGIONAL COMMANDER.—(1) Not later than 15 days after the date of the receipt of a report under subsection (i), the commander who appointed the board shall review—

(A) the report; and

(B) the review of that report submitted under subsection (f)(4) by the missing person's counsel.

(2) In reviewing a report under paragraph (1), the commander receiving the report shall determine whether or not the report is complete and free of administrative error. If the commander determines that the report is incomplete, or that the report is not free of administrative error, the commander may return the report to the board for further action on the report by the board.

(3) Upon a determination by the commander concerned that a report reviewed under this subsection is complete and free of administrative error, the commander shall make a recommendation concerning the status of each person covered by the report.

(4) The report, together with the recommendations under paragraph (3), shall be forwarded to the Secretary of Defense in accordance with procedures prescribed under section 1501(b) of this title.

(k) DETERMINATION BY SECRETARY.—The Secretary of Defense (or the Secretary of the military department concerned acting under delegation of authority from the Secretary of Defense) shall review the recommendations of a report forwarded under subsection (j)(4). After conducting such review, the Secretary shall make a determination, with respect to each person whose status is covered by the report, whether such person shall (1) continue to have a missing status, (2) be declared to have deserted, (3) be declared to be absent without leave, or (4) be declared to be dead. In making such determination, the Secretary may convene a board in accordance with section 1504 of this title.

(l) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 30 days after the date on which the Secretary makes a determination under subsection (k), the Secretary of Defense, acting through the head of the office established under section 1501(a) of this title, shall—

(1) provide an unclassified summary of the report of the board (including the name of the missing person's counsel for the inquiry, the names of the members of the board, and the name of the commander who convened the board) to the pri-

mary next of kin, to the other members of the immediate family, and to any other previously designated person of the missing person; and

(2) inform each individual referred to in paragraph (1) that the United States will conduct a subsequent inquiry into the whereabouts or status of the person not earlier than one year after the date of the first official notice of the disappearance of the person, unless information becomes available sooner that would result in a substantial change in the official status of the person.

§ 1504. Subsequent inquiry

(a) ADDITIONAL BOARD.—If information on the whereabouts or status of a person covered by an inquiry under section 1503 of this title becomes available within one year after the date of the submission of the report submitted under section 1502 of this title, the Secretary of Defense, acting through the head of the office established under section 1501(a) of this title, shall appoint a board under this section to conduct an inquiry into the information

(b) AUTHORITY FOR INQUIRY.—The Secretary of Defense may delegate authority over such subsequent inquiry to the Secretary concerned.

(c) SECRETARY CONCERNED.—In this section, the term "Secretary concerned" includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the agency employing the employee or contracting with the contractor, as the case may be.

(d) DATE OF APPOINTMENT.—The Secretary shall appoint a board under this section to conduct an inquiry into the whereabouts and status of a missing person on or about one year after the date of the report concerning that person submitted under section 1502 of this title.

(e) COMBINED INQUIRIES.—If it appears to the Secretary that the absence or status of two or more persons is factually related, the Secretary may appoint one board under this section to conduct the inquiry into the whereabouts or status of all such persons.

(f) COMPOSITION.—(1) Subject to paragraphs (2) and (3), a board appointed under this section shall consist of the following:

(A) In the case of a board appointed to inquire into the whereabouts or status of a member of the armed forces, not less than three officers having the grade of major or lieutenant commander or above.

(B) In the case of a board appointed to inquire into the whereabouts or status of a civilian employee of the Department of Defense or contractor of the Department of Defense—

(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS–13 of the General Schedule under section 5332 of title 5; and

(ii) such members of the armed forces as the Secretary of Defense considers advisable.

(2) The Secretary shall designate one member of a board appointed under this section as president of the board. The president of the board shall have a security clearance that affords the presi-

dent access to all information relating to the whereabouts and status of each person covered by the inquiry.

(3)(A) One member of each board appointed under this subsection shall be an attorney or judge advocate who has expertise in the public law relating to missing persons, the determination of death of such persons, and the rights of family members and dependents of such persons.

(B) One member of each board appointed under this subsection shall be an individual who—

(i) has an occupational specialty similar to that of one or more of the persons covered by the inquiry; and

(ii) has an understanding of and expertise in the official activities of one or more such persons at the time such person or persons disappeared.

(g) DUTIES OF BOARD.—A board appointed under this section to conduct an inquiry into the whereabouts or status of a person shall—

(1) review the report under subsection (i) of section 1503 of this title of the board appointed to conduct the inquiry into the status or whereabouts of the person under section 1503 of this title and the recommendation under subsection (j)(3) of that section of the commander who appointed the board under that subsection as to the status of the person;

(2) collect and evaluate any document, fact, or other evidence with respect to the whereabouts or status of the person that has become available since the completion of the inquiry under section 1503 of this title;

(3) draw conclusions as to the whereabouts or status of the person;

(4) determine on the basis of the activities under paragraphs (1) and (2) whether the status of the person should be continued or changed; and

(5) submit to the Secretary of Defense a report describing the findings and conclusions of the board, together with a recommendation for a determination by the Secretary concerning the whereabouts or status of the person.

(h) COUNSEL FOR MISSING PERSONS.—(1) When the Secretary appoints a board to conduct an inquiry under this section, the Secretary shall appoint counsel to represent each person covered by the inquiry.

(2) A person appointed as counsel under this subsection shall meet the qualifications and have the duties set forth in section 1503(f) of this title for a missing person's counsel appointed under that section.

(3) The review of the report of a board on an inquiry that is submitted by such counsel shall be made an official part of the record of the board with respect to the inquiry.

(i) ATTENDANCE OF FAMILY MEMBERS AND CERTAIN OTHER INTERESTED PERSONS AT PROCEEDINGS.—(1) With respect to any person covered by an inquiry under this section, the primary next of kin, other members of the immediate family, and any other previously designated persons of the missing person may attend the proceedings of the board during the inquiry in accordance with this section.

(2) The Secretary shall notify each individual referred to in paragraph (1) of the opportunity to attend the proceedings of a board. Such notice shall be provided not less than 60 days before the first meeting of the board.

(3) An individual who receives a notice under paragraph (2) shall notify the Secretary of the intent, if any, of that individual to attend the proceedings of the board not less than 21 days after the date on which the individual receives the notice.

(4) Each individual who notifies the Secretary under paragraph (3) of the individual's intent to attend the proceedings of the board—

(A) in the case of an individual who is the primary next of kin or another member of the immediate family of a missing person whose status is a subject of the inquiry and whose receipt of the pay or allowances (including allotments) of the missing person could be reduced or terminated as a result of a revision in the status of the missing person, may attend the proceedings of the board with private counsel;

(B) shall have access to the personnel file of the missing person, to unclassified reports (if any) of the board appointed under section 1503 of this title to conduct the inquiry into the whereabouts and status of the person, and to any other unclassified information or documents relating to the whereabouts and status of the person;

(C) shall be afforded the opportunity to present information at the proceedings of the board that such individual considers to be relevant to those proceedings; and

(D) subject to paragraph (5), shall be given the opportunity to submit in writing objection to any recommendation of the board under subsection (k) as to the status of the missing person.

(5) Objections under paragraph (4)(D) to any recommendation of the board shall be submitted to the president of the board not later than 24 hours after the date on which the recommendations are made. The president shall include any such objections in the report of the board under subsection (k).

(6) An individual referred to in paragraph (1) who attends the proceedings of a board under this subsection shall not be entitled to reimbursement by the United States for any costs (including travel, lodging, meals, local transportation, legal fees, transcription costs, witness expenses, and other expenses) incurred by that individual in attending such proceedings.

(j) AVAILABILITY OF INFORMATION TO BOARDS.—(1) In conducting proceedings in an inquiry under this section, a board may secure directly from any department or agency of the United States any information that the board considers necessary in order to conduct the proceedings.

(2) Upon written request from the president of a board, the head of a department or agency of the United States shall release information covered by the request to the board. In releasing such information, the head of the department or agency shall—

(A) declassify to an appropriate degree classified information; or

(B) release the information in a manner not requiring the removal of markings indicating the classified nature of the information.

(3)(A) If a request for information under paragraph (2) covers classified information that cannot be declassified, cannot be removed before release from the information covered by the request, or cannot be summarized in a manner that prevents the release of classified information, the classified information shall be made available only to president of the board making the request and the counsel for the missing person appointed under subsection (f).

(B) The president of a board shall close to persons who do not have appropriate security clearances the proceeding of the board at which classified information is discussed. Participants at a proceeding of a board at which classified information is discussed shall comply with all applicable laws and regulations relating to the disclosure of classified information. The Secretary concerned shall assist the president of a board in ensuring that classified information is not compromised through board proceedings.

(k) RECOMMENDATION ON STATUS.—(1) Upon completion of an inquiry under this subsection, a board shall make a recommendation as to the current whereabouts or status of each missing person covered by the inquiry.

(2) A board may not recommend under paragraph (1) that a person be declared dead unless—

(A) proof of death is established by the board; and

(B) in making the recommendation, the board complies with section 1507 of this title.

(l) REPORT.—A board appointed under this section shall submit to the Secretary of Defense a report on the inquiry carried out by the board, together with the evidence considered by the board during the inquiry. The report may include a classified annex.

(m) ACTIONS BY SECRETARY.—(1) Not later than 30 days after the receipt of a report from a board under subsection (k), the Secretary shall review—

(A) the report;

(B) the review of the report submitted to the Secretary under subsection (f)(3) by the counsel for each person covered by the report; and

(C) the objections, if any, to the report submitted to the president of the board under subsection (g)(6).

(2) In reviewing a report under paragraph (1) (including the review and objections described in subparagraphs (A) and (B) of that paragraph), the Secretary shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report.

(n) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 90 days after the date on which a board sub-

mits a report on a person under subsection (l), the Secretary of Defense shall—

(1) with respect to each missing person whose status or whereabouts are covered by the report, provide an unclassified summary of the report to the primary next of kin, the other members of the immediate family, and any other previously designated person; and

(2) in the case of a person who continues to be in a missing status, inform each individual referred to in paragraph (1) that the United States will conduct a further investigation into the whereabouts or status of the person not later than three years after the date of the official notice of the disappearance of the person, unless information becomes available within that time that would result in a substantial change in the official status of the person.

§ 1505. Further review

(a) SUBSEQUENT REVIEW.—(1) The Secretary shall conduct subsequent inquiries into the whereabouts or status of any person determined by the Secretary under section 1504 of this title to be in a missing status.

(2) Subject to paragraph (4), the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—

(A) on or about three years after the date of the official notice of the disappearance of the person; and

(B) not later than every three years thereafter.

(3) In addition to appointment of boards under paragraph (2), the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection upon receipt of information that could result in a change or revision of status of a missing person. Whenever the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (2)(B) shall be determined from the date of the receipt of such information.

(4) The Secretary is not required to appoint a board under paragraph (2) with respect to the disappearance of any person—

(A) more than 20 years after the initial report under section 1502 of this title of the disappearance of that person; or

(B) if, before the end of such 20-year period, the missing person is accounted for.

(b) CONDUCT OF PROCEEDINGS.—The appointment of, and activities before, a board appointed under this section shall be governed by the provisions of section 1504 of this title with respect to a board appointed under that section.

§ 1506. Personnel files

(a) INFORMATION IN FILES.—Except as provided in subsection (b), the Secretary of the department having jurisdiction over a missing person at the time of the person's disappearance shall, to the maximum extent practicable, ensure that the personnel file of the person contains all information in the possession of the United States relating to the disappearance and whereabouts or status of the person.

(b) CLASSIFIED INFORMATION.—(1) The Secretary concerned may withhold classified information from a personnel file under this section.

(2) If the Secretary concerned withholds classified information from the personnel file of a person, the Secretary shall ensure that the file contains the following:

(A) A notice that the withheld information exists.

(B) A notice of the date of the most recent review of the classification of the withheld information.

(c) WRONGFUL WITHHOLDING.—Any person who knowingly and willfully withholds from the personnel file of a missing person any information (other than classified information) relating to the disappearance or whereabouts or status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both.

(d) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to the missing person's primary next of kin, the other members of the missing person's immediate family, or any other previously designated person of the missing person.

§ 1507. Recommendation of status of death

(a) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under section 1504 or 1505 of this title may not recommend that a person be declared dead unless—

(1) credible evidence exists to suggest that the person is dead;

(2) the United States possesses no credible evidence that suggests that the person is alive;

(3) representatives of the United States have made a complete search of the area where the person was last seen (unless, after making a good faith effort to obtain access to such area, such representatives are not granted such access); and

(4) representatives of the United States have examined the records of the government or entity having control over the area where the person was last seen (unless, after making a good faith effort to obtain access to such records, such representatives are not granted such access).

(b) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under section 1504 or 1505 of this title makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under such section the following:

(1) A detailed description of the location where the death occurred.

(2) A statement of the date on which the death occurred.

(3) A description of the location of the body, if recovered.

(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person.

§ 1508. Persons previously declared dead

(a) REVIEW OF STATUS.—(1) Not later than three years after the date of the enactment of this chapter, a person referred to in para-

graph (2) may submit to the Secretary of Defense a request for appointment by the Secretary of a board to review the status of a person previously declared dead, in a case in which the death is declared to have occurred on or after January 1, 1950.

(2) A board shall be appointed under this section with respect to the death of any person based on the request of any of the following persons:

(A) An adult member of the immediate family of the person previously declared dead.

(B) An adult dependent of such person.

(C) The primary next of kin of such person.

(D) A person previously designated by such person.

(3) A request under this paragraph shall be submitted to the Secretary of the department of the United States that had jurisdiction over the person covered by the request at the time of the person's disappearance.

(b) APPOINTMENT OF BOARD.—Upon request of a person under subsection (a), the Secretary of Defense shall appoint a board to review the status of the person covered by the request.

(c) DUTIES OF BOARD.—A board appointed under this section to review the status of a person shall—

(1) conduct an investigation to determine the status of the person; and

(2) issue a report describing the findings of the board under the investigation and the recommendations of the board as to the status of the person.

(d) EFFECT OF CHANGE IN STATUS.—If a board appointed under this section recommends placing in a missing status a person previously declared dead, such person shall accrue no pay or allowances as a result of the placement of the person in such status.

§ 1509. Return alive of person declared missing or dead

(a) PAY AND ALLOWANCES.—Any person in a missing status or declared dead under the Missing Persons Act of 1942 (56 Stat. 143) or by a board appointed under this chapter who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

(b) EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.—Subsection (a) shall not be interpreted to invalidate or otherwise affect the receipt by any person of a death gratuity or other payment from the United States on behalf of a person referred to in subsection (a) before the date of the enactment of this chapter.

§ 1510. Effect on State law

Nothing in this chapter shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of the such State or political subdivision.

§ 1511. Definitions

In this chapter:

(1) The term "missing person" means—

(A) a member of the armed forces on active duty who is missing; or

(B) a civilian employee of the Department of Defense or of a contractor of the Department of Defense who is serving with or accompanying an armed force under orders and who is missing.

(2) The term "missing status" means the status of a missing person who is determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against that person's will.

(3) The term "accounted for", with respect to a person in a missing status, means that the person is returned to United States control alive, that the remains of the person are returned to the United States, or that credible evidence exists to support another determination of the person's status.

(4) The term "primary next of kin", in the case of a missing person, means—

(A) the principal individual who, but for the status of the person, would receive financial support from the person; or

(B) in the case of a missing person for whom there is no individual described in subparagraph (A), the family member or other individual designated by the missing person to receive a death gratuity.

(5) The term "member of the immediate family", in the case of a missing person, means the spouse or a child, parent, or sibling of the person.

(6) The term "previously designated person", in the case of a missing person, means an individual (other than an individual who is a member of the immediate family of the missing person) designated by the missing person under section 655 of this title for purposes of this chapter.

(7) The term "classified information" means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

(8) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

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CHAPTER 81—CIVILIAN EMPLOYEES

Sec.
1581. Foreign National Employees Separation Pay Account.

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¿1587. Employees of nonappropriated fund instrumentalities.
1587. Employees of nonappropriated fund instrumentalities: personnel actions.

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¿§ 1587. Employees of nonappropriated fund instrumentalities

§ 1587. Employees of nonappropriated fund instrumentalities: personnel actions

(a) In this section:

(1) The term "nonappropriated fund instrumentality employee" means a civilian employee who is paid from nonappropriated funds of Army and Air Force Exchange Service, ¿Navy Resale and Services Support Office *Navy Exchange Service Command*, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces. *Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee's duties.*

* * * * * * *

(d) The Secretary of Defense shall be responsible for the prevention of actions prohibited by subsection (b) and for the correction of any such actions that are taken. The authority of the Secretary to correct such actions may not be delegated to the Secretary of a military department or to the ¿Assistant Secretary of Defense for Manpower and Logistics *official in the Department of Defense with principal responsibility for personnel and readiness.*

(e) The Secretary of Defense, after consultation with the Director of the Office of Personnel Management and the Special Counsel of the Merit Systems Protection Board, shall prescribe regulations to carry out this section. Such regulations shall include provisions to protect the confidentiality of employees and applicants making disclosures described in clauses (1) and (2) of subsection (b) *and to permit the direct reporting of alleged violations of subsection (b) to the Inspector General of the Department of Defense.*

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§ 1595. Civilian faculty members at certain Department of Defense schools: employment and compensation

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(c) COVERED INSTITUTIONS.—This section applies with respect to the following institutions of the Department of Defense:

(1) The National Defense University.

(2) The Foreign Language Center of the Defense Language Institute.

(3) The George C. Marshall European Center for Security Studies.

(4) The Asia-Pacific Center for Security Studies.

(d) APPLICATION TO FACULTY MEMBERS AT NDU.—(1) In the case of the National Defense University, this section applies with respect to persons selected by the Secretary for employment as pro-

fessors, instructors, and lecturers at the National Defense University after February 27, 1990.

(2) For purposes of this section, the National Defense University includes the National War College, the Armed Forces Staff College, ¿the Institute for National Strategic Study *the Institute for National Strategic Studies, the Information Resources Management College*, and the Industrial College of the Armed Forces.

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(f) APPLICATION TO DIRECTOR AND DEPUTY DIRECTOR AT ASIA-PACIFIC CENTER FOR SECURITY STUDIES.—In the case of the Asia-Pacific Center for Security Studies, this section also applies with respect to the Director and the Deputy Director.

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CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

Subchapter		*Sec.*
I.	*Military Family Programs*	*1781*
II.	*Military Child Care*	*1791*

SUBCHAPTER I—MILITARY FAMILY PROGRAMS

Sec.
1781. Office of Family Policy.
1782. Surveys of military families.
1783. Family members serving on advisory committees.
1784. Employment opportunities for military spouses.
1785. Youth sponsorship program.
1786. Dependent student travel within the United States.
1787. Reporting of child abuse.

§ 1781. Office of Family Policy

(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an Office of Family Policy (hereinafter in this section referred to as the "Office"). The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel.

(b) DUTIES.—The Office—

(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and

(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.

(c) STAFF.—The Office shall have not less than five professional staff members.

§ 1782. Surveys of military families

(a) AUTHORITY.—The Secretary of Defense may conduct surveys of members of the armed forces on active duty or in an active status, members of the families of such members, and retired members of the armed forces to determine the effectiveness of Federal programs relating to military families and the need for new programs.

(b) RESPONSES TO BE VOLUNTARY.—Responses to surveys conducted under this section shall be voluntary.

(c) FEDERAL RECORDKEEPING REQUIREMENTS.—With respect to such surveys, family members of members of the armed forces and reserve and retired members of the armed forces shall be considered to be employees of the United States for purposes of section 3502(3)(A)(i) of title 44.

§ 1783. Family members serving on advisory committees

A committee within the Department of Defense which advises or assists the Department in the performance of any function which affects members of military families and which includes members of military families in its membership shall not be considered an advisory committee under section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.) solely because of such membership.

§ 1784. Employment opportunities for military spouses

(a) AUTHORITY.—The President shall order such measures as the President considers necessary to increase employment opportunities for spouses of members of the armed forces. Such measures may include—

(1) excepting, pursuant to section 3302 of title 5, from the competitive service positions in the Department of Defense located outside of the United States to provide employment opportunities for qualified spouses of members of the armed forces in the same geographical area as the permanent duty station of the members; and

(2) providing preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the armed forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade UA–8 and below and equivalent positions and for positions paid at hourly rates.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations—

(1) to implement such measures as the President orders under subsection (a);

(2) to provide preference to qualified spouses of members of the armed forces in hiring for any civilian position in the Department of Defense if the spouse is among persons determined to be best qualified for the position and if the position is located in the same geographical area as the permanent duty station of the member;

(3) to ensure that notice of any vacant position in the Department of Defense is provided in a manner reasonably designed to reach spouses of members of the armed forces whose permanent duty stations are in the same geographic area as the area in which the position is located; and

(4) to ensure that the spouse of a member of the armed forces who applies for a vacant position in the Department of Defense shall, to the extent practicable, be considered for any such position located in the same geographic area as the permanent duty station of the member.

(c) STATUS OF PREFERENCE ELIGIBLES.—Nothing in this section shall be construed to provide a spouse of a member of the armed

forces with preference in hiring over an individual who is a preference eligible.

§ 1785. Youth sponsorship program

(a) REQUIREMENT.—The Secretary of Defense shall require that there be at each military installation a youth sponsorship program to facilitate the integration of dependent children of members of the armed forces into new surroundings when moving to that military installation as a result of a parent's permanent change of station.

(b) DESCRIPTION OF PROGRAMS.—The program at each installation shall provide for involvement of dependent children of members presently stationed at the military installation and shall be directed primarily toward children in their preteen and teenage years.

§ 1786. Dependent student travel within the United States

Funds available to the Department of Defense for the travel and transportation of dependent students of members of the armed forces stationed overseas may be obligated for transportation allowances for travel within or between the contiguous States.

§ 1787. Reporting of child abuse

(a) IN GENERAL.—The Secretary of Defense shall request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member).

(b) DEFINITION.—In this section, the term "child abuse and neglect" has the meaning provided in section 3(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102).

SUBCHAPTER II—MILITARY CHILD CARE

Sec.
1791. Funding for military child care.
1792. Child care employees.
1793. Parent fees.
1794. Child abuse prevention and safety at facilities.
1795. Parent partnerships with child development centers.
1796. Subsidies for family home day care.
1797. Early childhood education program.
1798. Definitions.

§ 1791. Funding for military child care

It is the policy of Congress that the amount of appropriated funds available during a fiscal year for operating expenses for military child development centers and programs shall be not less than the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year.

§ 1792. Child care employees

(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall prescribe regulations implementing a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee.

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

(A) Early childhood development.

(B) Activities and disciplinary techniques appropriate to children of different ages.

(C) Child abuse prevention and detection.

(D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

(2) The duties of such employees shall include the following:

(A) Special teaching activities at the center.

(B) Daily oversight and instruction of other child care employees at the center.

(C) Daily assistance in the preparation of lesson plans.

(D) Assistance in the center's child abuse prevention and detection program.

(E) Advising the director of the center on the performance of other child care employees.

(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

(c) COMPETITIVE RATES OF PAY.—For the purpose of providing military child development centers with a qualified and stable civilian workforce, employees at a military installation who are directly involved in providing child care and are paid from nonappropriated funds—

(1) in the case of entry-level employees, shall be paid at rates of pay competitive with the rates of pay paid to other entry-level employees at that installation who are drawn from the same labor pool; and

(2) in the case of other employees, shall be paid at rates of pay substantially equivalent to the rates of pay paid to other employees at that installation with similar training, seniority, and experience.

(d) EMPLOYMENT PREFERENCE PROGRAM FOR MILITARY SPOUSES.—(1) The Secretary of Defense shall conduct a program under which qualified spouses of members of the armed forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position.

(2) A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 1794 of this title, in the same geographic area as the military child development center.

(e) COMPETITIVE SERVICE POSITION DEFINED.—In this section, the term "competitive service position" means a position in the competitive service, as defined in section 2102(a)(1) of title 5.

§ 1793. Parent fees

(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations establishing fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that, in the case of children who attend the centers on a regular basis, the fees shall be based on family income.

(b) LOCAL WAIVER AUTHORITY.—The Secretary of Defense may provide authority to installation commanders, on a case-by-case basis, to establish fees for attendance of children at child development centers at rates lower than those prescribed under subsection (a) if the rates prescribed under subsection (a) are not competitive with rates at local non-military child development centers.

§ 1794. Child abuse prevention and safety at facilities

(a) CHILD ABUSE TASK FORCE.—The Secretary of Defense shall maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

(b) NATIONAL HOTLINE.—(1) The Secretary of Defense shall maintain a national telephone number for persons to use to report suspected child abuse or safety violations at a military child development center or family home day care site. The Secretary shall ensure that such reports may be made anonymously if so desired by the person making the report. The Secretary shall establish procedures for following up on complaints and information received over that number.

(2) The Secretary shall publicize the existence of the number.

(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that, in a case of allegations of child abuse at a military child development center or family home day care site, the commander of the military installation or the head of the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is available.

(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe regulations on safety and operating procedures at military child development centers. Those regulations shall apply uniformly among the military departments.

(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected not less often than four times a year. Each such inspection shall be unannounced. At least one inspection a year shall be carried out by a representative of the installation served by the center, and one inspection a year shall be carried out by a representative of the major command under which that installation operates.

(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a safety, health, or child welfare law or regulation (discovered at an inspection or otherwise) at a military child development center shall be remedied immediately.

(2) In the case of a violation that is not life threatening, the commander of the major command under which the installation concerned operates may waive the requirement that the violation be remedied immediately for a period of up to 90 days beginning on the date of the discovery of the violation. If the violation is not remedied as of the end of that 90-day period, the military child development center shall be closed until the violation is remedied. The Secretary of the military department concerned may waive the preceding sentence and authorize the center to remain open in a case in which the violation cannot reasonably be remedied within that 90-day period or in which major facility reconstruction is required.

(3) If a military child development center is closed under paragraph (2), the Secretary of the military department concerned shall promptly submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report notifying those committees of the closing. The report shall include—

(A) notice of the violation that resulted in the closing and the cost of remedying the violation; and

(B) a statement of the reasons why the violation has not been remedied as of the time of the report.

§ 1795. Parent partnerships with child development centers

(a) PARENT BOARDS.—The Secretary of Defense shall require that there be established at each military child development center a board of parents, to be composed of parents of children attending the center. The board shall meet periodically with staff of the center and the commander of the installation served by the center for the purpose of discussing problems and concerns. The board, together with the staff of the center, shall be responsible for coordinating the parent participation program described in subsection (b).

(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center. As part of such program, the Secretary of Defense may establish fees for attendance of children at such a center, in the case of parents who participate in the parent participation program at that center, at rates lower than the rates that otherwise apply.

§ 1796. Subsidies for family home day care

The Secretary of Defense may use appropriated funds available for military child care purposes to provide assistance to family home day care providers so that family home day care services can be provided to members of the armed forces at a cost comparable to the cost of services provided by military child development centers. The Secretary shall prescribe regulations for the provision of such assistance.

§ 1797. Early childhood education program

The Secretary of Defense shall require that all military child development centers meet standards of operation necessary for accreditation by an appropriate national early childhood programs accrediting body.

§ 1798. Definitions

In this subchapter:

(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of the commander of a military installation) at which child care services are provided for members of the armed forces or any other facility at which such child care services are provided that is operated by the Secretary of a military department.

(2) The term "family home day care" means home-based child care services that are provided for members of the armed forces by an individual who (A) is certified by the Secretary of the military department concerned as qualified to provide those services, and (B) provides those services on a regular basis for compensation.

(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated funds or nonappropriated funds).

(4) The term "child care fee receipts" means those nonappropriated funds that are derived from fees paid by members of the armed forces for child care services provided at military child development centers.

¿CHAPTER 89—VOLUNTEERS INVESTING IN PEACE AND SECURITY

¿Sec.
¿1801. Volunteer program to assist independent states of the former Soviet Union.
¿1802. Participants in program.
¿1803. Determining needs for volunteers; role of the Secretary of State.
¿1804. Compensation and benefits.
¿1805. Termination of program.

¿§ 1801. Volunteer program to assist independent states of the former Soviet Union

¿The Secretary of Defense may, in coordination with the Secretary of State, carry out a program in accordance with this chapter to provide technical assistance to address the infrastructure needs of the independent states of the former Soviet Union. Assistance under the program shall be provided by volunteers who are retired members of the armed forces, or who are former members of the armed forces, who have been recently released from active duty.

¿§ 1802. Participants in program

¿(a) If the Secretary of Defense carries out a program under section 1801 of this title, the Secretary shall select the volunteers to

participate in the program. Volunteers shall be selected from among individuals—

¿(1) who have retired from active duty or been released from active duty under a voluntary separation program; and

¿(2) who possess technical skills relevant to the infrastructure needs of the independent states of the former Soviet Union (as identified by the Secretary of State pursuant to section 1803(a) of this title), including skills in areas such as civil engineering, electrical engineering, nuclear plant safety, environmental cleanup, logistics, communications, and health care.

¿(b) Volunteers may be selected from among individuals who were separated from active duty after October 22, 1990.

¿(c)(1) The Secretary of Defense may employ volunteers, by contract, to provide services that use their technical skills for the benefit of governmental or nonprofit nongovernmental entities in any of the independent states of the former Soviet Union.

¿(2) A person who is employed as a volunteer under paragraph (1) shall be considered to be an employee for the purposes of chapter 81 of title 5, 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 purpose by reason of such employment as a volunteer.

¿(d) Volunteers may be required to agree to serve in an independent state of the former Soviet Union for a period of two years (in addition to such period of education and training provided under section 1803(c) of this title) except to the extent the Secretary of State determines otherwise.

¿(e) The Secretary of Defense shall prescribe procedures for the selection of volunteers, including procedures for the submission of applications.

¿(f) The Secretary of Defense may maintain a registry of applicants who are qualified to be volunteers, including the skills of such applicants.

¿§ 1803. Determining needs for volunteers; role of the Secretary of State

¿(a) The Secretary of Defense, in consultation with the Secretary of State, may identify the technical skills that could be provided by volunteers pursuant to this chapter and identify opportunities for the placement of volunteers with governmental or nongovernmental entities in each participating country.

¿(b) The Secretary of State shall approve the functions to be performed by each volunteer assigned pursuant to this chapter and the assignment of each volunteer to an independent state of the former Soviet Union.

¿(c) The Secretary of State may provide volunteers with language training, cultural orientation, and such other education and training as the Secretary determines appropriate. Any expenses incurred by the Secretary of State in carrying out this subsection shall be reimbursed by the Secretary of Defense from amounts currently available to the Secretary of Defense.

¿(d) Each volunteer shall serve under the authority of the United States chief of mission to the participating country and shall be

considered to be a member of the United States mission to that country.

¿§ 1804. Compensation and benefits

¿(a) Each volunteer may be paid a stipend at the annual rate of $25,000, subject to the availability of appropriations.

¿(b) If the Secretary of Defense determines that it is necessary to do so in order to recruit qualified volunteers, the Secretary may provide volunteers with the allowances and other benefits considered appropriate by the Secretary, including the following:

¿(1) Round-trip transportation for the volunteer and the volunteer's dependents.

¿(2) Medical care for the volunteer and dependents, if the volunteer is not otherwise eligible for medical care from the Department of Defense or such medical care is otherwise not reasonably available.

¿(3) A housing allowance.

¿(4) An overseas cost-of-living allowance.

¿(5) Expenses of education of dependents.

¿§ 1805. Termination of program

¿The selection of volunteers to participate in the program under this chapter shall terminate on September 30, 1995.

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PART III—TRAINING AND EDUCATION

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CHAPTER 103—SENIOR RESERVE OFFICERS' TRAINING CORPS

Sec.
2101. Definitions.

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2111a. Detail of officers to senior military colleges.

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§ 2107. Financial assistance program for specially selected members

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(h)(1) * * *

(2) Of the total number of cadets appointed in the financial assistance programs under this section in any year, not less than 100 shall be designated for placement in the program of the Army for service upon commissioning in the Army National Guard, of which one-half shall be for financial assistance awarded for a period of two years and the remainder shall be for financial assistance awarded for a period of four years. *A cadet designated under this paragraph who, having initially contracted for service as provided in subsection (b)(5)(A) and having received financial assistance for two years under an award providing for four years of financial as-*

sistance under this section, modifies such contract with the consent of the Secretary of the Army to provide for service as described in subsection (b)(5)(B), may be counted, for the year in which the contract is modified, toward the number of appointments required under the preceding sentence for financial assistance awarded for a period of four years. A cadet who receives financial assistance under this paragraph and is commissioned in the Army National Guard shall perform service as provided in subsection (b)(5)(B) and may not be accepted for service on *full-time* active duty pursuant to the member's voluntary application until the completion of the period of service prescribed in that subsection. The Secretary of the Army shall prescribe regulations to ensure a geographical distribution of the cadets who receive financial assistance under this paragraph.

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§ 2111a. Detail of officers to senior military colleges

(a) DETAIL OF OFFICERS TO SERVE AS COMMANDANT OR ASSISTANT COMMANDANT OF CADETS.—(1) Upon the request of a senior military college, the Secretary of Defense shall detail an officer on the active-duty list to serve as Commandant of Cadets at that college or (in the case of a college with an Assistant Commandant of Cadets) detail an officer on the active-duty list to serve as Assistant Commandant of Cadets at that college (but not both).

(2) In the case of an officer detailed as Commandant of Cadets, the officer may, upon the request of the college, be assigned from among the Professor of Military Science, the Professor of Naval Science (if any), and the Professor of Aerospace Science (if any) at that college or may be in addition to any other officer detailed to that college in support of the program.

(3) In the case of an officer detailed as Assistant Commandant of Cadets, the officer may, upon the request of the college, be assigned from among officers otherwise detailed to duty at that college in support of the program or may be in addition to any other officer detailed to that college in support of the program.

(b) DESIGNATION OF OFFICERS AS TACTICAL OFFICERS.—Upon the request of a senior military college, the Secretary of Defense shall authorize officers (other than officers covered by subsection (a)) who are detailed to duty as instructors at that college to act simultaneously as tactical officers (with or without compensation) for the Corps of Cadets at that college.

(c) DETAIL OF OFFICERS.—The Secretary of a military department shall designate officers for detail to the program at a senior military college in accordance with criteria provided by the college. An officer may not be detailed to a senior military college without the approval of that college.

(d) SENIOR MILITARY COLLEGES.—The senior military colleges are the following:

(1) Texas A&M University.
(2) Norwich College.
(3) The Virginia Military Institute.
(4) The Citadel.
(5) Virginia Polytechnic Institute and State University.

(6) North Georgia College.

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CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS

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SUBCHAPTER II—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

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§ 2130a. Financial assistance: nurse officer candidates

(a) BONUS AUTHORIZED.—(1) A person described in subsection (b) who, during the period beginning on November 29, 1989, and ending on September 30, ¿1996 *1998*, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $5,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed $2,500.

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CHAPTER 108—DEPARTMENT OF DEFENSE SCHOOLS

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§ 2162. Preparation of budget requests for operation of professional military education schools

(a) * * *

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(d) DEFINITIONS.—In this section:

(1) * * *

(2) The term "National Defense University" means the National War College, the Armed Forces Staff College, *the Institute for National Strategic Studies, the Information Resources Management College,* and the Industrial College of the Armed Forces.

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CHAPTER 109—EDUCATIONAL LOAN REPAYMENT PROGRAMS

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§ 2171. Education loan repayment program: enlisted members on active duty in specified military specialties

(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); ¿or

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

¿(B) *(C)* any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

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CHAPTER 111—SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION

Sec.
2191. Graduate fellowships.

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¿2198. Management training program in Japanese language and culture.

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¿§ 2198. Management training program in Japanese language and culture

¿(a) The Secretary of Defense, in coordination with the National Science Foundation, shall establish a program for the making of grants on a competitive basis to United States institutions of higher education and other United States not-for-profit organizations for the conduct of programs for scientists, engineers, and managers to learn Japanese language and culture.

¿(b) The Secretary of Defense shall prescribe in regulations the criteria for awarding a grant under the program for activities of an institution or organization referred to in subsection (a), including the following:

¿(1) Whether scientists, engineers, and managers of defense laboratories and Department of Energy laboratories are permitted a level of participation in such activities that is beneficial to the development and application of defense critical technologies by such laboratories.

¿(2) Whether such activities include the placement of United States scientists, engineers, and managers in Japanese government and industry laboratories—

¿(A) to improve the knowledge of such scientists, engineers, and managers in (i) Japanese language and culture, and (ii) the research and development and management practices of such laboratories; and

¿(B) to provide opportunities for the encouragement of technology transfer from Japan to the United States.

¿(3) Whether an appropriate share of the costs of such activities will be paid out of funds derived from non-Federal Government sources.

¿(c) In this section, the term "defense critical technology" means a technology identified in a defense critical technologies plan submitted to the Congress under section 2506 of this title.

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

Chap. Sec.
131. Planning and Coordination 2201
133. Facilities for Reserve Components 2231
* * * * * * *
¿171. Security and Control of Supplies 2891
* * * * * * *

CHAPTER 131—PLANNING AND COORDINATION

Sec.
2201. Apportionment of funds: authority for exemption; excepted expenses.
* * * * * * *
¿2207. Expenditure of appropriations: limitation.
* * * * * * *
2216. Defense Business Operations Fund.
* * * * * * *

¿§ 2207. Expenditure of appropriations: limitation

¿Money appropriated to the Department of Defense may not be spent under a contract other than a contract for personal services unless that contract provides that—

¿(1) the United States may, by written notice to the contractor, terminate the right of the contractor to proceed under the contract if the Secretary concerned or his designee finds, after notice and hearing, that the contractor, or his agent or other representative, offered or gave any gratuity, such as entertainment or a gift, to an officer, official, or employee of the United States to obtain a contract or favorable treatment in the awarding, amending, or making of determinations concerning the performance, of a contract; and

¿(2) if a contract is terminated under clause (1), the United States has the same remedies against the contractor that it would have had if the contractor had breached the contract and, in addition to other damages, is entitled to exemplary damages in an amount at least three, but not more than 10, as determined by the Secretary or his designee, times the cost incurred by the contractor in giving gratuities to the officer, official, or employee concerned.

The existence of facts upon which the Secretary makes findings under clause (1) may be reviewed by any competent court.

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§ 2216. Defense Business Operations Fund

(a) MANAGEMENT OF WORKING-CAPITAL FUNDS AND CERTAIN ACTIVITIES.—(1) The Secretary of Defense may manage the performance of the working-capital funds and industrial, commercial, and support type activities described in subsection (b) through the fund known as the Defense Business Operations Fund, which is established on the books of the Treasury. Except for the funds and activities specified in subsection (b), no other functions, activities, funds, or accounts of the Department of Defense may be managed through

the Fund. The Secretary may not convert to management through the Fund any function, activity, fund, or account of the Department of Defense that is not managed through the Fund as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.

(2) Management of the Fund, including management of cash balances in the Fund, shall be exercised in the Office of the Secretary of Defense under the immediate authority of the Under Secretary of Defense (Comptroller). The Fund shall be treated as a single account for purposes of subchapter III of chapter 13 and subchapter II of chapter 15 of title 31.

(b) FUNDS AND ACTIVITIES INCLUDED.—The funds and activities referred to in subsection (a) are the following:

(1) Working-capital funds established under section 2208 of this title and in existence on December 5, 1991.

(2) Those activities that, on December 5, 1991, were funded through the use of a working-capital fund established under that section.

(3) The Defense Finance and Accounting Service.

(4) The Defense Industrial Plant Equipment Center.

(5) The Defense Commissary Agency.

(6) The Defense Technical Information Service.

(7) The Defense Reutilization and Marketing Service.

(c) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—(1) The Secretary of Defense shall provide in accordance with this subsection for separate accounting, reporting, and auditing of funds and activities managed through the Fund.

(2) The Secretary shall maintain the separate identity of each fund and activity managed through the Fund that (before the establishment of the Fund) was managed as a separate fund or activity.

(3) The Secretary shall maintain separate records for each function for which payment is made through the Fund and which (before the establishment of the Fund) was paid directly through appropriations, including the separate identity of the appropriation account used to pay for the performance of the function.

(d) CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH THE FUND.—(1) Charges for goods and services provided through the Fund shall include the following amounts:

(A) Amounts necessary to recover the full costs of—

(i) the development, implementation, operation, and maintenance of systems supporting the wholesale supply and maintenance activities of the Department of Defense; and

(ii) the use of members of the armed forces in the provision of the goods and services, computed by calculating, to the maximum extent practicable, such costs using the pay and allowances of the members.

(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

(C) Amounts necessary to recover the full cost of the operation of the Defense Finance Accounting Service.

(2) Charges for goods and services provided through the Fund may not include the following amounts:

(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the Fund pursuant to section 2805(c)(1) of this title.

(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the Fund.

(3) After September 30, 1996, functions and activities managed through the Fund may not use advance billing in the provision of goods and services to customers.

(e) CAPITAL ASSET SUBACCOUNT.—(1) Amounts charged for depreciation of capital assets pursuant to subsection (d)(1)(B) shall be credited to a separate capital asset subaccount established within the Fund.

(2) The Secretary of Defense may award contracts for capital assets of the Fund in advance of the availability of funds in the subaccount.

(f) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense shall establish billing procedures to ensure that the balance in the Fund does not exceed the amount necessary to provide for the working capital requirements of the Fund, as determined by the Secretary.

(g) PURCHASE FROM OTHER SOURCES.—The Secretary of Defense or the Secretary of a military department may purchase goods and services that are available for purchase from the Fund from a source other than the Fund if the Secretary determines that such source offers a more competitive rate for the goods and services than the Fund offers.

(h) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

(1) A detailed report that contains a statement of all receipts and disbursements of the Fund (including such a statement for each subaccount of the Fund) for the year for which the report is submitted.

(2) A detailed proposed budget for the operation of the Fund for the fiscal year for which the budget is submitted. The proposed budget shall include the amount necessary to cover the operating losses, if any, of the Fund for the previous fiscal year.

(3) A comparison of the amounts actually expended for the operation of the Fund for the previous fiscal year with the amount proposed for the operation of the Fund for that fiscal year in the President's budget.

(4) A report on the capital asset subaccount of the Fund that contains the following information:

(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

(i) DEFINITIONS.—In this section:

(1) The term "capital assets" means the following capital assets that have a development or acquisition cost of not less than $15,000:

(A) Minor construction projects financed by the Fund pursuant to section 2805(c)(1) of this title.

(B) Automatic data processing equipment, software, other equipment, and other capital improvements.

(2) The term "Fund" means the Defense Business Operations Fund.

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CHAPTER 137—PROCUREMENT GENERALLY

Sec.
2302. Definitions.

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2317. Equipment leasing.

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§ 2317. Equipment leasing

The Secretary of Defense shall authorize and encourage the use of leasing in the acquisition of equipment whenever such leasing is practicable and otherwise authorized by law.

CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

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SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

Sec.
2350a. Cooperative research and development projects: allied countries.

* * * * * * *

2350k. Relocation within host nation of elements of armed forces overseas.

* * * * * * *

§ 2350j. Burden sharing contributions by designated countries and regional organizations

(a) * * *

¿(b) CREDIT TO APPROPRIATIONS.—Contributions accepted in a fiscal year under subsection (a) shall be credited to appropriations of the Department of Defense that are available for that fiscal year

for the purposes for which the contributions are made. The contributions so credited shall be—

¿(1) merged with the appropriations to which they are credited; and

¿(2) available for the same time period as those appropriations.

(b) ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).

* * * * * * *

(d) AUTHORIZATION OF MILITARY CONSTRUCTION.—Contributions ¿credited under subsection (b) to an appropriation account of the Department of Defense *placed in an account established under subsection (b)* may be used—

(1) * * *

* * * * * * *

(e) NOTICE AND WAIT REQUIREMENTS.—(1) When a decision is made to carry out a military construction project under subsection (d), the Secretary of Defense shall submit ¿a report to the congressional defense committees *to the congressional committees specified in subsection (g) a report* containing—

(A) an explanation of the need for the project;

(B) the then current estimate of the cost of the project; and

(C) a justification for carrying out the project under that subsection.

* * * * * * *

(g) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (e)(1) are—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

§ 2350k. Relocation within host nation of elements of armed forces overseas

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

(6) All other clearly identifiable expenses directly related to relocation.

(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

(d) ANNUAL REPORT TO CONGRESS.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report specifying—

(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.

CHAPTER 139—RESEARCH AND DEVELOPMENT

Sec.
2351. Availability of appropriations.

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¿2356. Contracts: delegations.

* * * * * * *

2366. Major systems and munitions programs: ¿survivability *vulnerability* testing and lethality testing required before full-scale production.

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¿2370. Biological Defense Research Program.

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¿§ 2356. Contracts: delegations

¿(a) The Secretary of a military department may delegate any authority under section 1584, 2353, 2354, or 2355 of this title to—

¿(1) the Under Secretary of his department;

¿(2) an Assistant Secretary of his department; or

¿(3) the chief, and one assistant to the chief, of any technical service, bureau, or office.

However, the authority of the Secretary under section 2353(b)(3) of this title may not be delegated to a person described in clause (3) of this subsection.

¿(b) Subject to other provisions of law, the power to negotiate and administer contracts for research or development, or both, may be further delegated. In this section, the term "negotiate" means make without a solicitation for sealed bids under chapter 137 of this title.

* * * * * * *

§ 2358. Research and development projects

(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may engage in basic research, applied research, advanced research, and development projects that—

(1) * * *

(2) either—

(A) relate to weapon systems and other military needs; or

(B) are of potential interest to the Department of Defense *and advance the defense policies and objectives specified in section 2501 of this title.*

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§ 2361. Award of grants and contracts to colleges and universities: requirement of competition

(a) * * *

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(c)(1) * * *

(2) Each report under paragraph (1) shall cover the preceding ¿calendar *fiscal* year and shall be submitted not later than February 1 of the year after the *fiscal* year covered by the report.

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§ 2364. Coordination and communication of defense research activities

(a) * * *

(b) FUNCTIONS OF DEFENSE RESEARCH FACILITIES.—The Secretary of Defense shall ensure, to the maximum extent practicable—

(1) * * *

* * * * * * *

(5) that, in order to promote increased consideraton of technological issues early in the development process, any position paper prepared by a Defense research facility on a technological issue relating to a major weapon system, and any technological assessment made by such facility in the case of such component, is made a part of the records considered for the purpose of making ¿milestone O, milestone I, and milestone II *acquisition program* decisions.

(c) DEFINITIONS.—In this section:

(1) * * *

¿(2) The term "milestone O decision" means the decision made within the Department of Defense that there is a mission need for a new major weapons system and that research and development is to begin to meet such need.

¿(3) The term "milestone I decision" means the decision by an appropriate official of the Department of Defense selecting a new major weapon system concept and a program for demonstration and validation of such concept.

¿(4) The term "milestone II decision" means the decision by an appropriate official of the Department of Defense approving the full-scale development of a new major weapon system.

(2) The term "acquisition program decisions" has the meaning prescribed by the Secretary of Defense in regulations.

* * * * * * *

§ 2366. Major systems and munitions programs: ¿survivability *vulnerability* and lethality testing required before full-scale production

(a) REQUIREMENTS.—(1) The Secretary of Defense shall provide that—

(A) a covered system may not proceed beyond low-rate initial production until realistic ¿survivability *vulnerability* testing of the system is completed in accordance with this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection; and

(B) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection.

(2) The Secretary of Defense shall provide that a covered product improvement program may not proceed beyond low-rate initial production until—

(A) in the case of a product improvement to a covered system, realistic ¿survivability *vulnerability* testing is completed in accordance with this section; and

(B) in the case of a product improvement to a major munitions program or a missile program, realistic lethality testing is completed in accordance with this section.

(b) TEST GUIDELINES.—(1) ¿Survivability *Vulnerability* and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or pro-

gram (including a covered product improvement program) to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile (or in the product modification or upgrade to the system, munition, or missile) before proceeding beyond low-rate initial production.

(2) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

(3) Testing should begin at the component, subsystem, and subassembly level, culminating with tests of the complete system configured for combat.

(c) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive the application of the ¿survivability *vulnerability* and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary, before the system or program enters engineering and manufacturing development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the ¿survivability *vulnerability* and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data. Such alternative testing may not be carried out in the case of any covered system (or covered product improvement program for a covered system) unless the Secretary certifies to Congress, before the system or program enters engineering and manufacturing development, that the ¿survivability *vulnerability* and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.

(3) The Secretary shall include with any certification under paragraph (1) or (2) a report explaining how the Secretary plans to evaluate the ¿survivability *vulnerability* or the lethality of the system or program and assessing possible alternatives to realistic ¿survivability *vulnerability* testing of the system or program.

(4) In time of war or mobilization, the President may suspend the operation of any provision of this section.

(d) REPORTING TO CONGRESS.—At the conclusion of ¿survivability *vulnerability* or lethality testing under subsection (a), the Secretary of Defense shall submit a report on the testing to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives. Each such report shall describe the results of the ¿survivability *vulnerability* or lethality testing and shall give the Secretary's overall assessment of the testing.

(e) DEFINITIONS.—In this section:

(1) * * *

* * * * * * *

(3) The term "realistic ¿survivability *vulnerability* testing" means, in the case of a covered system (or a covered product improvement program for a covered system), testing for vulnerability of the system in combat by firing munitions likely to be

encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the susceptibility to attack and combat performance of the system.

* * * * * * *

(6) The term "covered product improvement program" means a program under which—

(A) a modification or upgrade will be made to a covered system which (as determined by the Secretary of Defense) is likely to affect significantly the ¿survivability *vulnerability* of such system; or

* * * * * * *

¿§ 2370. Biological Defense Research Program

¿(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report on research, development, test, and evaluation conducted by the Department of Defense during the preceding fiscal year for the purposes of biological defense. The report shall be submitted in both classified and unclassified form and shall be submitted each year in conjunction with the submission of the budget to Congress for the next fiscal year.

¿(b) CONTENTS OF REPORT.—Each report under this section shall provide the following information:

¿(1) A description of each biological or infectious agent or toxin that was used in, or that was the subject of, research, development, test, and evaluation conducted for the purposes of biological defense during the fiscal year covered by the report and not previously listed in publications of the Centers for Disease Control (CDC).

¿(2) A description of the biological properties of each such agent.

¿(3) A statement of the location of each biological defense research facility and the amount spent by the Department of Defense during the fiscal year covered by the report at each such facility for research, development, test, and evaluation for biological defense research.

¿(4) A statement of the biosafety level used at each such facility in conducting that research, development, test, and evaluation.

¿(5) A statement that documentation of annual coordination with local health, fire, and police officials for the provision of emergency support services has been included in the facility safety plan for each biological defense research facility.

¿(c) TYPES OF RESEARCH COVERED.—This section applies to all research, development, test, and evaluation activities conducted by the Department of Defense for the purpose of biological defense.

¿(d) DEFINITIONS.—In this section:

¿(1) The term "biosafety level" means the applicable biosafety level described in the publication entitled "Biosafety in Microbiological and Biomedical Laboratories" (CDC–NIH, 1984).

¿(2) The term "biological defense research facility" means a location at which research, development, test, and evaluation for purposes of biological defense involving any biological or infectious agent or toxin (whether or not listed in a CDC publication) is conducted.

§ 2370a. Medical countermeasures against biowarfare threats: allocation of funding between near-term and other threats

(a) ALLOCATION BETWEEN NEAR-TERM AND OTHER THREATS.—Of the funds appropriated or otherwise made available for any fiscal year for the medical component of the Biological Defense Research Program (BDRP) of the ¿Department of Defense—

¿(1) not more than 80 percent may be obligated and expended for product development, or for research, development, test, or evaluation, of medical countermeasures against near-term validated biowarfare threat agents; and

¿(2) not more than 20 percent *Department of Defense, not more than 50 percent* may be obligated or expended for product development, or for research, development, test, or evaluation, of medical countermeasures against mid-term or far-term validated biowarfare threat agents.

(b) DEFINITIONS.—In this section:

(1) * * *

¿(2) The term "near-term validated biowarfare threat agent" means a validated biowarfare threat agent that has been, or is being, developed or produced for weaponization within 5 years, as assessed and determined by the Defense Intelligence Agency.

¿(3) *(2)* The term "mid-term validated biowarfare threat agent" means a validated biowarfare threat agent that is an emerging biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 5 years and less than 10 years, as assessed and determined by the Defense Intelligence Agency.

¿(4) *(3)* The term "far-term validated biowarfare threat agent" means a validated biowarfare threat agent that is a future biowarfare threat, is the object of research by a foreign threat country, and could be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined by the Defense Intelligence Agency.

¿(5) *(4)* The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

§ 2371. Research projects: transactions other than contracts and grants

(a) ADDITIONAL FORMS OF TRANSACTIONS AUTHORIZED.—The Secretary of Defense and the Secretary of each military department may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection in carrying out basic, applied, and advanced research projects *for the purpose of advancing the defense policies and objectives specified in section 2501 of this title.* The authority under this subsection is in addition to the authority provided in section 2358 of this title to

use contracts, cooperative agreements, and grants in carrying out such projects.

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CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

Sec.
2381. Contracts: regulations for bids.
* * * * * * *
¿2383. Procurement of critical aircraft and ship spare parts: quality control.
* * * * * * *
¿2397 Employees or former employees of defense contractors: reports.
¿2397a. Requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors.
¿2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.
¿2397c. Defense contractors: requirements concerning former Department of Defense officials.
* * * * * * *

¿§ 2383. Procurement of critical aircraft and ship spare parts: quality control

¿(a) In procuring any spare or repair part that is critical to the operation of an aircraft or ship, the Secretary of Defense shall require the contractor supplying such part to provide a part that meets all appropriate qualification and contractural quality requirements as may be specified and made available to prospective offerors. In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part unless the Secretary determines in writing—

¿(1) that there are other requirements sufficiently similar to those requirements that should be used instead; or

¿(2) that any or all such requirements are unnecessary.

¿(b) In this section, the term "spare or repair part" means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

* * * * * * *

¿§ 2397. Employees or former employees of defense contractors: reports

¿(a) In this section:

¿(1) The term "contract" means a contract (including the net amount of modifications to, and the exercise of options under, the contract) that is in an amount in excess of the simplified acquisition threshold, as in effect at the time that the contract is awarded. The term does not include a contract for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

¿(2) The term "defense contractor" means a person that provides services, supplies, or both (including construction) to the Department of Defense under a contract directly with the Department.

¿(3) The term ''served'', when used with ''otherwise'', includes the representation of a defense contractor—

¿(A) at a hearing, trial, appeal, or other action in which the United States was a party and that involved services, supplies, or both (including construction) that were provided to, or to be provided to, the Department by the contractor; and

¿(B) in a transaction with the Department that involved services, supplies, or both (including construction) that were provided to, or to be provided to, the Department by the contractor.

¿(b)(1) This subsection applies to—

¿(A) a former or retired officer of the Army, Navy, Air Force, or Marine Corps who (i) has at least 10 years of active service, and (ii) held for any period during that service a grade above captain or, if the Navy, above lieutenant; and

¿(B) a former civilian official or employee (including a consultant or part-time employee) of the Department of Defense whose pay rate (at any time during the three-year period before the end of the last service of the person with the Department) was at least equal to the minimum rate at the time for GS–13.

¿(2)(A) If a person to whom this subsection applies (i) was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a year at an annual pay rate of at least $25,000 and the defense contractor was awarded contracts by the Department of Defense during the preceding year that totaled at least $10,000,000, and (ii) within the two-year period ending on the day before the person began the employment or consulting relationship, the person served on active duty or was a civilian employee for the Department, the person shall file a report with the Secretary of Defense in such manner and form as the Secretary may prescribe. The person shall file the report not later than 90-days after the date on which the person began the employment or consulting relationship.

¿(B) The person shall file an additional report each time, during the two-year period beginning on the date the active duty or civilian employment with the Department terminated, that the person's job with the defense contractor significantly changes or the person commences an employment or consulting relationship with another defense contractor under the conditions described in the first sentence. A person required to file an additional report under this subparagraph shall file the report within 30 days after the date of the change or the date the employment or consulting relationship commences, as the case may be.

¿(3) The report shall contain the following information:

¿(A) The name and address of the person reporting.

¿(B) The name and address of the defense contractor that employed the person or for whom the person served as a consultant or otherwise.

¿(C) The title of the position of the person when serving the defense contractor.

¿(D) A description of the duties and work performed or to be performed by the person for the defense contractor, and a de-

scription of any similar duties or work performed for which the person had at least partial responsibility as a civilian official or employee of the Department of Defense or a member of the armed forces during the two-year period referred to in paragraph (2)(A)(ii).

¿(E) The military grade of the person while on active duty or the gross pay rate while performing civilian service for the Department.

¿(F) A description of the duties and the work performed by the person while on active duty or performing civilian service for the Department during the two-year period referred to in paragraph (2)(A)(ii) and a description of the type of work performed and the extent to which such work was performed by the person for the defense contractor that has employed the person or has retained the person as a consultant.

¿(G) The date the active duty or civilian service by the person for the Department ended and the date the service with the defense contractor began and, if applicable, ended.

¿(H) Other pertinent information the Secretary requires.

¿(I) A statement describing any disqualification action taken by the person during the two-year period referred to in paragraph (2)(A)(ii) with respect to any involvement in a matter concerning the defense contractor.

¿(c)(1) A person who (A) holds civilian office or employment (including employment as a consultant or part-time employee) in the Department at any time during a year at a pay rate at least equal to the minimum rate for GS–13, and (B) within the two-year period before the effective date of employment with the Department was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a year at an annual pay rate of at least $25,000 and the contractor was awarded contracts by the Department during that year that total at least $10,000,000, shall file a report with the Secretary in the way and at the time prescribed by the Secretary.

¿(2) The report shall contain the following information:

¿(A) The name and address of the person reporting.

¿(B) The title of the position of the person with the Department.

¿(C) A description of the duties and work performed by the person with the Department and a description of any similar duties or work for which the person had at least partial responsibility as an employee or consultant of the defense contractor during the two-year period referred to in paragraph (1)(B).

¿(D) The name and address of the defense contractor that employed the person or for whom the person served as a consultant or otherwise.

¿(E) The title of the position of the person when serving the defense contractor.

¿(F) A description of the duties and the work performed by the person for the defense contractor and a description of the type of work and the extent to which such work was performed by the person in connection with contracts of the defense con-

tractor with the Department during the two-year period referred to in paragraph (1)(B).

¿(G) The date the service of the person with the defense contractor ended and the date the service with the Department began.

¿(H) Other pertinent information the Secretary requires.

¿(d) The Secretary shall maintain a file containing the information filed under this section. The file may be inspected by members of the public at any time during regular work hours.

¿(e) Before April 1 of each year, the Secretary shall report to Congress the names of persons who have filed reports for the preceding year under this section. The names shall be listed, by groups, under the names of the appropriate defense contractors. The Secretary may include for each name appropriate additional information.

¿(f)(1) A person who fails to comply with the filing requirements of this section shall be liable to the United States for an administrative penalty in the amount of $10,000, or in such lesser amount as may be determined by the Secretary of Defense, considering all the relevant circumstances.

¿(2) The Secretary shall determine whether a person has failed to file a report required by this section and shall determine the amount of the penalty under paragraph (1). The Secretary shall make the determinations on the record after opportunity for an agency hearing as provided in subchapter II of chapter 5 of title 5. The determinations of the Secretary shall be subject to judicial review under chapter 7 of such title.

¿§ 2397a. Requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors

¿(a) In this section:

¿(1) The term "contract" has the same meaning as provided in section 2397(a)(1) of this title.

¿(2) The term "covered defense official" means any individual who is serving—

¿(A) as a civilian officer or employee of the Department of Defense in a position for which the rate of pay is equal to or greater than the minimum rate of pay payable for grade GS–11 under the General Schedule; or

¿(B) on active duty in the armed forces in a pay grade of O–4 or higher.

¿(3) The term "defense contractor" has the same meaning as provided in section 2397(a)(2) of this title.

¿(4) The term "designated agency ethics official" has the same meaning as the term "designated agency official" in section 109(3) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).

¿(5) The term "employment" means a relationship under which an individual furnishes services in return for any payment or other compensation paid directly or indirectly to the individual for the services.

¿(6) The term "procurement function" includes, with respect to a contract, any function relating to—

¿(A) the negotiation, award, administration, or approval of the contract;

¿(B) the selection of a contractor;

¿(C) the approval of changes in the contract;

¿(D) quality assurance, operation and developmental testing, the approval of payment, or auditing under the contract; or

¿(E) the management of the procurement program.

¿(b)(1) If a covered defense official who has participated in the performance of a procurement function in connection with a contract awarded by the Department of Defense contacts, or is contacted by, the defense contractor to whom the contract was awarded (or an agent of such contractor) regarding future employment opportunities for the official with the defense contractor, the official (except as provided in paragraph (2)) shall—

¿(A) promptly report the contact to the official's supervisor and to the designated agency ethics official (or his designee) of the agency in which the covered defense official is employed; and

¿(B) for any period for which future employment opportunities for the covered defense official have not been rejected by either the covered defense official or the defense contractor, disqualify himself from all participation in the performance of procurement functions relating to contracts of the defense contractor.

¿(2) A covered defense official is not required to report the first contact with a defense contractor under paragraph (1)(A) or to disqualify himself under paragraph (1)(B) if the defense official terminates the contact immediately. However, if an additional contact of the same or a similar nature is made by or with the defense contractor, the covered defense official shall report (as provided in paragraph (1)) the contact and all contacts of the same or a similar nature made by or with the defense contractor during the 90-day period ending on the date the additional contact is made.

¿(c) A report required by subsection (b)(1) shall include—

¿(1) the date of each contact covered by the report; and

¿(2) a brief description of the substance of the contact.

¿(d)(1)(A) If the Secretary of Defense determines under paragraph (2) that a person has failed promptly to make a report required by subsection (b)(1)(A) or (b)(2) or has failed to disqualify himself in any case in which he is required to do so under subsection (b)(1)(B)—

¿(i) the person may not accept or continue employment with the defense contractor during the 10-year period beginning with the date of separation from Government service; and

¿(ii) the Secretary may impose on the person an administrative penalty in the amount of $10,000, or in such lesser amount as may be prescribed by the Secretary, taking into consideration all the circumstances.

¿(B) An individual who accepts or continues employment prohibited by subparagraph (A)(i) shall be liable to the United States for an administrative penalty as provided in subparagraph (A)(ii). Such penalty may be in addition to any penalty previously imposed on the individual under subparagraph (A)(ii) for failure promptly to

make a report relating to the defense contractor by whom the individual is employed as required by subsection (b)(1)(A) or (b)(2).

¿(C) The Secretary of Defense may take action against an individual under this paragraph before, on, or after the date on which the individual's employment with the Government is terminated.

¿(2)(A) The Secretary of Defense shall determine—

¿(i) whether an individual has failed promptly to make a report required by subsection (b)(1)(A) or (b)(2) or has failed to disqualify himself in any case in which he is required to do so under subsection (b)(1)(B) and whether to impose a penalty under paragraph (1)(A)(ii) and the amount of such penalty; and

¿(ii) whether an individual is liable to the United States for an administrative penalty under paragraph (1)(B) and the amount of such penalty.

There shall be a rebuttable presumption in favor of a covered defense official that failure to report a contact with a defense contractor or failure to disqualify himself from participation in the performance of certain procurement functions is not a violation of subsection (b)(1)(A) or (b)(2) or subsection (b)(1)(B), as the case may be, if the defense official has received an opinion in writing from the designated agency ethics official under subsection (e) stating that a report or disqualification by the official was not necessary.

¿(B) Determinations of the Secretary under subparagraph (A) shall be made on the record after opportunity for an agency hearing as provided in subchapter II of chapter 5 of title 5. The determinations of the Secretary shall be subject to judicial review under chapter 7 of such title.

¿(e) If a designated agency ethics official or his designee receives a report required by subsection (b) or a request for advice from a covered defense official relating to a contact described in such subsection, the designated agency ethics official or his designee may issue a written opinion regarding the necessity of a covered defense official to file a report or disqualify himself from participation in certain procurement functions, as the case may be.

¿(f) A covered defense official should request the advice of his supervisor and the appropriate designated agency ethics official (or his designee) on matters to which this section applies.

¿§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

¿(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if—

¿(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or operated by the contractor and that was the principal location of such person's performance of that procurement function;

¿(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

¿(C) during such two-year period the person acted as one of the primary representatives of the United States—

¿(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

¿(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

¿(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

¿(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

¿(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

¿(c) This section does not apply to any person with respect to—

¿(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

¿(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS–13 of the General Schedule; or

¿(B) as a member of the armed forces in a pay grade below pay grade O–4; or

¿(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

¿(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

¿(B) as a member of the armed forces in a pay grade below pay grade O–7.

¿(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

¿(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise

such person on the applicability of this section to the acceptance of such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

¿(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

¿(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1), such official shall issue a written opinion on the applicability of this section to the acceptance of compensation covered by the request.

¿(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

¿(f) In this section:

¿(1) The term "compensation" includes any payment, gift, benefit, reward, favor, or gratuity—

¿(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

¿(B) which is valued in excess of $250 at the prevailing market price.

¿(2)(A) The term "contractor" means a person—

¿(i) that contracts to supply the Department of Defense with goods or services;

¿(ii) that controls or is controlled by a person described in clause (i); or

¿(iii) that is under common control with a person described in clause (i).

¿(B) Such term does not include—

¿(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract;

¿(ii) a State or local government; or

¿(iii) any person who contracts to supply the Department of Defense only commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

¿(3) The term "procurement function" includes, with respect to a contract, any function relating to—

¿(A) the negotiation, award, administration, or approval of the contract;

¿(B) the selection of a contractor;

¿(C) the approval of changes in the contract;

¿(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

¿(E) the management of the procurement program.

¿(4) The term "armed forces" does not include the Coast Guard.

¿(5) The term "major defense system" has the meaning given the term "major system" in section 2302(5) of this title.

¿(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

¿§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

¿(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

¿(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

¿(A) $100,000; or

¿(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

¿(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who—

¿(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

¿(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

¿(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

¿(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

¿(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

¿(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

¿(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

¿(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5.

¿(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by subsection (a). The Secretary shall report any such possible violation to the Attorney General.

¿(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

¿(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.

¿(e) This section does not apply to contracts for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

* * * * * * *

§ 2398. Procurement of gasohol as motor vehicle fuel

¿(a) DOD MOTOR VEHICLES.—To the maximum extent feasible and consistent with overall defense needs and vehicle management practices prescribed by the Secretary of Defense, the Secretary shall make contracts, by competitive bid and subject to appropriations, to purchase domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense.

¿(b) *(a)* OTHER FEDERAL FUEL PROCUREMENTS.—Consistent with the vehicle management practices prescribed by the heads of affected departments and agencies of the Federal Government and consistent with Executive Order Number 12261, whenever the Secretary of Defense enters into a contract for the procurement of unleaded gasoline that is subject to tax under section 4081 of the Internal Revenue Code of 1986 for motor vehicles of a department or agency of the Federal Government other than the Department of Defense, the Secretary shall buy alcohol-gasoline blends containing at least 10 percent domestically produced alcohol in any case in which the price of such fuel is the same as, or lower than, the price of unleaded gasoline.

¿(c) *(b)* SOLICITATIONS.—Whenever the Secretary issues a solicitation for bids to procure unleaded gasoline under subsection ¿(b) *(a)*, the Secretary shall expressly include in such solicitation a request for bids on alcohol-gasoline blends containing at least 10 percent domestically produced alcohol.

§ 2399. Operational test and evaluation of defense acquisition programs

(a) CONDITION FOR PROCEEDING BEYOND LOW-RATE INITIAL PRODUCTION.—(1) The Secretary of Defense shall provide that a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed.

(2) In this subsection, the term "major defense acquisition program" means *a conventional weapons system that*—

(A) ¿a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

* * * * * * *

(3) The Secretary of Defense shall designate an official of the Department of Defense to perform the duties of the position referred to in this section as the "designated OT&E official".

(b) OPERATIONAL TEST AND EVALUATION.—(1) Operational testing of a major defense acquisition program may not be conducted until the ¿Director of Operational Test and Evaluation of the Department of Defense *designated OT&E official* approves (in writing) the adequacy of the plans (including the projected level of funding) for operational test and evaluation to be conducted in connection with that program.

(2) The ¿Director *designated OT&E official* shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the ¿Director *designated OT&E official* shall prepare a report stating the opinion of the ¿Director *designated OT&E official* as to—

(A) whether the test and evaluation performed were adequate; and

(B) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat.

(3) The ¿Director *designated OT&E official* shall submit each report under paragraph (2) to the Secretary of Defense, the Under Secretary of Defense for Acquisition and Technology, and the congressional defense committees. Each such report shall be submitted to those committees in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary and Under Secretary and shall be accompanied by such comments as the Secretary may wish to make on the report.

(c) DETERMINATION OF QUANTITY OF ARTICLES REQUIRED FOR OPERATIONAL TESTING.—The quantity of articles of a new system that are to be procured for operational testing shall be determined by—

(1) the ¿Director of Operational Test and Evaluation of the Department of Defense *designated OT&E official*, in the case of a new system that is a major defense acquisition program (as defined in section 139(a)(2)(B) of this title); or

(2) the operational test and evaluation agency of the military department concerned, in the case of a new system that is not a major defense acquisition program.

* * * * * * *

(e) IMPARTIAL CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—(1) The ¿Director *designated OT&E official* may not contract with any person for advisory and assistance services with regard to the test and evaluation of a system if that person participated in (or is participating in) the development, production, or testing of such system for a military department or Defense Agency (or for another contractor of the Department of Defense).

(2) The ¿Director *designated OT&E official* may waive the limitation under paragraph (1) in any case if the ¿Director *designated OT&E official* determines in writing that sufficient steps have been taken to ensure the impartiality of the contractor in providing the services. The Inspector General of the Department of Defense shall review each such waiver and shall include in the Inspector General's semi-annual report an assessment of those waivers made since the last such report.

* * * * * * *

¿(g) DIRECTOR'S ANNUAL REPORT.—As part of the annual report of the Director under section 139 of this title, the Director shall describe for each program covered in the report the status of test and evaluation activities in comparison with the test and evaluation master plan for that program, as approved by the Director. The Director shall include in such annual report a description of each waiver granted under subsection (e)(2) since the last such report.

¿(h) *(g)* DEFINITIONS.—In this section:

(1) The term "operational test and evaluation" has the meaning given that term in section 139(a)(2)(A) of this title. For purposes of subsection (a), that term does not include an operational assessment based exclusively on—

(A) computer modeling;

(B) simulation; or

(C) an analysis of system requirements, engineering proposals, design specifications, or any other information contained in program documents.

(2) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

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CHAPTER 146—CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS

Sec.

2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance.

* * * * * * *

2472. Management of depot employees.

2473. Depot-level maintenance and repair workload.

* * * * * * *

§ 2464. Core logistics functions

(a) * * *

(b) LIMITATION ON CONTRACTING.—(1) * * *

* * * * * * *

¿(3) A waiver under paragraph (2) may not take effect until—

¿(A) the Secretary submits a report on the waiver to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives; and

¿(B) a period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

¿(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 20-day period.

(3) A waiver under paragraph (2) may not take effect until the end of the 30-day period beginning on the date on which the Secretary submits a report on the waiver to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives.

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§ 2466. Limitations on the performance of depot-level maintenance of materiel

(a) * * *

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(d) ¿EXCEPTION.— *EXCEPTIONS.—(1)* Subsection (a) shall not apply with respect to the Sacramento Army Depot, Sacramento, California.

(2) If a maintenance or repair project for a single item that is contracted for performance by non-Federal Government personnel accounts for 5 percent or more of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload, the project and the funds necessary for the project shall not be considered when applying the percentage limitation specified in subsection (a) to that military department or Defense Agency.

* * * * * * *

§ 2472. Management of depot employees

(a) PROHIBITION ON MANAGEMENT BY END STRENGTH.—The civilian employees of the Department of Defense involved in the depot-level maintenance and repair of materiel may not be managed on the basis of any end-strength constraint or limitation on the number of such employees who may be employed on the last day of a fiscal year. Such employees shall be managed solely on the basis of the available workload and the funds made available for such depot-level maintenance and repair.

(b) ANNUAL REPORT.—Not later than 60 days after the beginning of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the number of employees employed and expected to be employed by the Department of Defense during that fiscal year to perform depot-level maintenance and repair of materiel. The report shall indicate whether that number is sufficient to perform the depot-level maintenance and repair functions for which funds have been appropriated for that fiscal year for performance by Department of Defense employees.

§ 2473. Depot-level maintenance and repair workload

(a) IMPORTANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR CORE CAPABILITIES.—It is essential for the national defense that the United States maintain a core depot-level maintenance and repair capability (including skilled personnel, equipment, and facilities) within facilities owned and operated by the Department of Defense that—

(1) is of the proper size (A) to ensure a ready and controlled source of technical competence and repair and maintenance capability necessary to meet the requirements of the National Military Strategy and other requirements for responding to military contingencies, and (B) to provide for rapid augmentation in time of emergency; and

(2) is assigned sufficient workload to ensure cost efficiency and proficiency in time of peace.

(b) DETERMINATION OF CORE DEPOT MAINTENANCE ACTIVITIES.—(1) The Secretary of each military department shall identify those depot-level maintenance and repair activities under that Secretary's jurisdiction that are necessary to ensure for that military department the depot-level maintenance and repair capability described in subsection (a) and as required by section 2464 of this title.

(2) The Secretary of each military department shall prescribe the procedures to be used to quantify the requirements necessary to support the capability described in subsection (a).

(c) PERFORMANCE OF WORKLOAD THAT SUPPORTS DEPOT-LEVEL MAINTENANCE AND REPAIR CORE CAPABILITIES.—The Secretary of each military department shall require the performance of depot-level maintenance and repair of activities identified under subsection (b) at organic Department of Defense maintenance depots at levels sufficient to ensure that the Department of Defense maintains the core depot-level maintenance and repair capability described in subsection (a).

(d) INTERSERVICING OF WORKLOAD.—The Secretary of Defense, after consultation with the Secretaries of the military departments, may transfer workload that supports the core capability described in subsection (a) from one military department to another. The Secretary of Defense shall use merit-based criteria in evaluating such transfers.

(e) SOURCE OF REPAIR FOR OTHER DEPOT-LEVEL WORKLOADS.—In the case of depot-level maintenance and repair workloads in excess of the workload required pursuant to subsection (c) to be performed at organic Department of Defense depots, the Secretary of

Defense, after consultation with the Secretaries of the military departments, may provide for the performance of those workloads through sources selected by competition. The Secretary of Defense shall use competition between private firms and organic Department of Defense depots for any such workload when the Secretary determines there are less than two qualified sources of supply among private firms for the performance of that specific depot-level maintenance workload.

(f) DEPOT-LEVEL WORKLOAD COMPETITIONS.—In any competition under this section for a depot-level workload (whether among private firms or between Department of Defense activities and private firms), bids from any entity participating in the competition shall accurately disclose all costs properly and consistently derived from accounting systems and practices that comply with laws, policies, and standards applicable to that entity. In any competition between Department of Defense activities and private firms, the Government calculation for the cost of performance of the function by Department of Defense civilian employees shall be based on an estimate using the most efficient and cost effective manner for performance of such function by Department of Defense civilian employees.

(g) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report specifying depot maintenance core capability requirements determined in accordance with the procedures established to comply with subsection (b)(2) and the planned amount of workload to be accomplished in the organic depots of each military department in support of those requirements for the following fiscal year. The report shall identify the planned amount of workload measured by direct labor hours and by amounts expended and shall be shown separately for each commodity group.

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CHAPTER 147—UTILITIES AND SERVICES

Sec.
2481. Utilities and services: sale; expansion and extension of systems and facilities.
¿2482. Commissary stores: private operation.
2482. Commissary stores: operation.
¿2483. Sale of electricity from alternate energy and cogeneration production facilities.
2483. Special sale authority regarding electricity.
2483a. Procurement of electricity from most economical source.

* * * * * * *

§ 2482. Commissary stores: ¿private operation

(a) PRIVATE OPERATION.—Private persons may operate commissary stores under such regulations as the Secretary of Defense may approve. A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.

(b) CONTRACTS WITH OTHER AGENCIES AND INSTRUMENTALITIES.—(1) The Defense Commissary Agency, and other agencies of the Department of Defense that support the operation of the commissary store system, may enter into contracts or other agreements with other appropriated fund or nonappropriated fund instrumentalities of the Department of Defense or other departments or agencies of the United States to facilitate efficiency in the management and operation of the commissary store system.

(2) A commissary store operated by a nonappropriated fund instrumentality shall be operated in accordance with section 2484 of this title. Subject to such section, the Secretary of Defense may authorize a transfer of goods, supplies, and facilities of, and funds appropriated for, the Defense Commissary Agency to a nonappropriated fund instrumentality operating a commissary store.

(c) PAYMENTS TO VENDOR AGENTS.—If a distributor for a vendor of resale products under contract to the Defense Commissary Agency is designated as an agent by and for the vendor, the distributor may invoice the agency and accept payments from the agency under the vendor's contract. A distributor designated as a agent for purposes of this subsection may request payment for more than one product of the vendor on the same invoice. All payments made by the agency to a distributor designated by a vendor as the vendor's agent shall be considered payments under the vendor's contract, and the payments shall fulfill the payment obligations of the United States in the same manner as if the payments had been made directly to the vendor.

¿§ 2483. Sale of electricity from alternate energy and cogeneration production facilities

§ 2483. Special sale authority regarding electricity

(a) The Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from ¿alternate energy or cogeneration type production facilities *energy production facilities* which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy shall be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

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§ 2483a. Procurement of electricity from most economical source

The Secretary of Defense shall procure electricity for use on military installations and by other activities and functions of the Department of Defense from the most economical source, as determined by the Secretary. The Secretary shall make the determination required by this section in the manner provided in section 2462 of this title.

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§ 2486. Commissary stores: merchandise that may be sold; uniform surcharges and pricing

(a) * * *

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(d) The Secretary of Defense shall prescribe regulations establishing uniform pricing policies for merchandise authorized for sale by this section. The policies in the regulations shall—

(1) require the establishment of a sales price of ¿each item *items* of merchandise at a level which will recoup the ¿actual product cost of the item *total average product cost of merchandise sold* (consistent with this section and sections 2484 and 2685 of this title); and

* * * * * * *

§ 2487. Commissary stores: limitations on release of sales information

(a) * * *

(b) RELEASE UNDER COMPETITIVELY AWARDED AGREEMENTS.—The Secretary of Defense may enter into one or more agreements that provide for limited release of information described in subsection (a)(2). The Secretary shall use competitive procedures to enter into each such agreement *unless the agreement is between the Defense Commissary Agency and a manufacturer, distributor, or other vendor doing business with the Agency and is restricted to information directly related to merchandise provided by that manufacturer, distributor, or vendor*. Each agreement shall require payment for such information and shall specify the amount of such payment.

* * * * * * *

§ 2488. Nonappropriated fund instrumentalities: purchase of alcoholic beverages

(a) The Secretary of Defense shall provide that—

(1) covered alcoholic beverage purchases made for resale on a military installation located in the United States shall be made from the most competitive source *and distributed in the most economical manner,* price and other factors considered, except that

* * * * * * *

(c)(1) In the case of covered alcoholic beverage purchases of distilled spirits, to determine whether a nonappropriated fund instrumentality of the Department of Defense represents the most economical method of distribution to package stores, the Secretary of Defense shall consider all components of the distribution costs incurred by the nonappropriated fund instrumentality, such as overhead costs (including management, logistics, administration, depreciation, and utilities), the costs of carrying inventory, and handling and distribution costs.

(2) If the use of a private distributor would subject covered alcoholic beverage purchases of distilled spirits to direct or indirect State taxation, a nonappropriated fund instrumentality shall be

considered to be the most economical method of distribution regardless the results of the determination under paragraph (1).

(3) The Secretary shall use the agencies performing audit functions on behalf of the armed forces and the Inspector General of the Department of Defense to make determinations under this subsection.

¿(c) *(d)* In this section:

(1) The term "covered alcoholic beverage purchases" means purchases of alcoholic beverages by a nonappropriated fund instrumentality of the Department of Defense with nonappropriated funds.

(2) The term "State" includes the District of Columbia.

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CHAPTER 148—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION

Subchapter	Sec.
I. Definitions	2491
* * * * * * *	
VI. Defense Export Loan Guarantees	*2540*

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SUBCHAPTER II—POLICIES AND PLANNING

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§ 2501. Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion

(a) DEFENSE POLICY OBJECTIVES FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national technology and industrial base be capable of meeting the following national security objectives:

(1) * * *

* * * * * * *

¿(5) Furthering the missions of the Department of Defense through the support of policy objectives and programs relating to the defense reinvestment, diversification, and conversion objectives specified in subsection (b).

(b) POLICY OBJECTIVES RELATING TO ¿DEFENSE REINVESTMENT, DIVERSIFICATION, AND CONVERSION *TECHNOLOGY DEVELOPMENT FOR NATIONAL SECURITY*.—It is the policy of Congress that¿, during a period of reduction in defense expenditures, the United States further the national security objectives set forth in subsection (a) through programs ¿of reinvestment, diversification, and conversion of defense resources that—

(1) * * *

* * * * * * *

(5) assist those activities being undertaken at the State and local levels to support ¿defense economic reinvestment *eco-*

nomic investment, conversion, adjustment, and diversification activities; and

* * * * * * *

§ 2502. National Defense Technology and Industrial Base Council

(a) * * *

* * * * * * *

(c) RESPONSIBILITIES.—The Council shall have the following responsibilities:

(1) To ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor, concerning—

(A) the capabilities of the national technology and industrial base to meet the national security objectives set forth in section 2501(a) of this title;

(B) programs for achieving¿, during a period of reduction in defense expenditures, the defense reinvestment, diversification, and conversion objectives *the objectives* set forth in section 2501(b) of this title; and

(C) changes in acquisition policy that strengthen the national technology and industrial base.

¿(2) To provide overall policy guidance to ensure effective implementation by agencies of the Federal Government of defense reinvestment and conversion activities during a period of reduction in defense expenditures.

¿(3) *(2)* To prepare the periodic assessment and the periodic plan required by sections 2505 and 2506 of this title, respectively.

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SUBCHAPTER III—PROGRAMS FOR DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

Sec.
¿2511. Defense dual-use critical technology partnerships.
¿2512. Commercial-military integration partnerships.
¿2513. Regional technology alliances assistance program.
2511. Defense dual-use critical technology program.

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¿2520. Navy Reinvestment Program.

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¿§ 2511. Defense dual-use critical technology partnerships

§ 2511. Defense dual-use critical technology program

(a) ESTABLISHMENT OF ¿PARTNERSHIPS *PROGRAM*.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title¿, by providing for the establishment of cooperative arrangements (hereinafter in this section referred to as "partnerships") between the Department of Defense and entities referred to in subsection (b) in

order to encourage and provide *by encouraging and providing* for research, development, and application of dual-use critical technologies. The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title ¿in order to establish the partnerships *in furtherance of the program. The Secretary shall identify projects to be conducted as part of the program.*

¿(b) NON-DEPARTMENT OF DEFENSE PARTICIPANTS.—In the case of each partnership, the entities with which the Secretary enters into the partnership shall include two or more eligible firms or a nonprofit research corporation established by two or more eligible firms and, may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, Government-owned and operated industrial facilities, institutions of higher education, agencies of State governments, and other entities that participate in the partnership by supporting the activities conducted by such firms or corporations under this section.

¿(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary of Defense shall ensure that the amount of funds provided by the Federal Government to a partnership does not exceed 50 percent of the total cost of partnership activities.

¿(2) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of calculating the share of the partnership costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of partnership activities. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the partnership from non-Federal sources.

¿(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.

¿(d) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section. In providing such assistance, the Secretary shall make available, as appropriate for the work to be performed by each partnership, equipment and

facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) to a partnership recognized under this section for purposes of any project that is approved by the Secretary.

(b) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide technical and other assistance to facilitate the achievement of the purposes of projects conducted under the program. In providing such assistance, the Secretary may make available, as appropriate for the work to be performed, equipment and facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) for purposes of projects selected by the Secretary.

¿(e) *(c)* SELECTION PROCESS.—Competitive procedures shall be used in the ¿establishment of partnerships *conduct of the program.*

¿(f) *(d)* SELECTION CRITERIA.—The criteria for the selection of ¿proposed partnerships for establishment under this section *projects under the program* shall include the following:

(1) The extent to which the ¿program proposed to be conducted by the partnership *proposed project* advances and enhances the national security objectives set forth in section 2501(a) of this title.

(2) The technical excellence of the ¿program proposed to be conducted by the partnership *proposed project.*

(3) The qualifications of the personnel proposed to participate in the ¿partnership's *proposed project's* research activities.

(4) An assessment of timely private sector investment in activities to achieve the goals and objectives of the proposed ¿partnership *project* other than through the ¿partnership *project.*

(5) The potential effectiveness of the ¿partnership *project* in the further development and application of each technology proposed to be developed by the ¿partnership *project* for the national technology and industrial base.

(6) The extent of the financial commitment of eligible firms to the proposed ¿partnership *project.*

(7) The extent to which the ¿partnership *project* does not unnecessarily duplicate projects undertaken by other agencies.

(8) Such other criteria that the Secretary prescribes.

¿(g) *(e)* REGULATIONS.—The Secretary of Defense shall prescribe regulations for the purposes of this section.

¿§ 2512. Commercial-military integration partnerships

¿(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by providing for the establishment of cooperative arrangements (hereinafter in this section referred to as "partnerships") between the Department of Defense and one or more eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, institutions of higher education, agencies of State governments, and other entities that

participate in the partnership by supporting the activities conducted by such firms or corporations under this section.

¿(b) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, and enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

¿(2) The Secretary may not enter into a partnership under this section for a period longer than 5 years.

¿(3) The Secretary may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section, subject to the limitations in subsection (c).

¿(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary under a partnership does not exceed the maximum authorized percentage of the total cost of partnership activities.

¿(2) The maximum authorized percentage of funding referred to in paragraph (1) for each year of a partnership is as follows:

¿(A) 50 percent in the first year.

¿(B) 40 percent in the second year.

¿(C) 30 percent in the each of the third, fourth, and fifth years.

¿(3)(A) The Secretary shall prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of determining the share of the partnership costs that has been or is being undertaken by such participants.

¿(B) In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of partnership activities. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the partnership from non-Federal sources.

¿(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.

¿(d) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

¿(e) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

¿(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national security objectives set forth in section 2501(a) of this title.

¿(2) The technical excellence of the program proposed to be conducted by the partnership.

¿(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

¿(4) An assessment that timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

¿(5) The potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for the industrial and technology base.

¿(6) The extent of the financial commitment of the eligible firms to the proposed partnership.

¿(7) The likelihood that the partnership will develop technologies that are sufficiently viable in the commercial sector so that such technologies will be available to meet the future reconstitution requirements and other needs of the Department of Defense described in the most recent national technology and industrial base plan prepared under section 2506 of this title.

¿(8) The likelihood that, within five years after the establishment of the partnership (or a lesser period established by the Secretary), Federal Government funding of the partnership will not be necessary.

¿(9) The extent to which the partnership does not unnecessarily duplicate programs undertaken by other Federal agencies.

¿(10) Such other criteria as the Secretary prescribes.

¿§ 2513. Regional technology alliances assistance program

¿(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in consultation and coordination with the Secretary of Commerce, shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by providing assistance for the activities of eligible regional technology alliances in the United States.

¿(b) ELIGIBLE ALLIANCES.—A regional technology alliance is eligible for assistance under the program if—

¿(1) the purpose of the regional technology alliance is to facilitate the use of one or more defense critical technologies for defense and commercial purposes by an industry in the region served by that regional technology alliance in order to maintain within the United States industrial capabilities that are vital to the national security of the United States; and

¿(2) the regional technology alliance meets the other requirements of this section.

¿(c) PROGRAM PARTICIPANTS.—(1) The participants in a regional technology alliance—

¿(A) shall include—

¿(i) eligible firms that conduct business in the region of the United States served or to be served by the regional technology alliance; and

¿(ii) a sponsoring agency in such region; and

¿(B) may include other organizations considered appropriate by the Secretary of Defense.

¿(2)(A) A sponsoring agency of a regional technology alliance may be any agency described in subparagraph (B) that, as determined by the Secretary, provides adequate assurances that it will—

¿(i) meet the financial requirement in subsection (e); and

¿(ii) provide assistance in the management of the regional technology alliance.

¿(B) An agency referred to in subparagraph (A) is any of the following:

¿(i) An agency of a State or local government.

¿(ii) A nonprofit organization established, or performing functions, pursuant to an agreement entered into by one or more States or local governments.

¿(iii) A membership organization in which a State or local government is a member.

¿(iv) An institution of higher education designated by a State or local government.

¿(d) ASSISTANCE AUTHORIZED.—(1) Under the program, the Secretary may provide—

¿(A) financial assistance for the activities of a regional technology alliance (including, in the case of a proposed regional technology alliance, the establishment of such regional technology alliance) in any amount not in excess of 50 percent of the cost of conducting such activities (including the cost of establishing a proposed regional technology alliance) during the period covered by the financial assistance; and

¿(B) technical assistance for the activities (and, in the case of a proposed regional technology alliance, the establishment) of a regional technology alliance awarded financial assistance authorized by subparagraph (A).

¿(2) The Secretary may not provide financial assistance under the program for construction of facilities.

¿(3) The Secretary may furnish assistance to a regional technology alliance under the program for not more than six years.

¿(e) FINANCIAL CONTRIBUTIONS OF ALLIANCE PARTICIPANTS.—(1) The sponsoring agency of a regional technology alliance and the eligible firms participating in the regional technology alliance shall pay at least 50 percent of the total cost incurred each year for the activities of the regional technology alliance. Funds contributed for the activities of the regional technology alliance by institutions of higher education or private, nonprofit organizations participating in the regional technology alliance shall be considered as funds contributed by the sponsoring agency.

¿(2) If the right to use or license the results of any research and development activity of a regional technology alliance is limited by participants in the regional technology alliance to one or more, but less than one-half, of the eligible firms participating in the regional technology alliance, the non-Federal Government participants in

the regional technology alliance shall pay the total cost incurred for such activity.

¿(3) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a regional technology alliance for the purpose of calculating the share of the costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of a regional technology alliance. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the regional technology alliance from non-Federal sources.

¿(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the regional technology alliance from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary shall revoke the selection of the proposal submitted by the small business concern.

¿(f) MANAGEMENT PLAN.—A regional technology alliance shall operate under a management plan that includes provisions for the eligible firms participating in the regional technology alliance to have the primary responsibility for directing the activities of the regional technology alliance and to exercise that responsibility through, among any other means, majority voting membership of such firms on the board of directors of the regional technology alliance.

¿(g) ADMINISTRATION OF PROGRAM.—The Secretary shall prescribe regulations that, to the extent practicable, apply the same requirements and authorities in the administration of this section as apply under subsections (d) and (e) of section 2511 of this title in the case of the dual-use critical technologies partnerships program provided for in that section.

¿(h) SELECTION CRITERIA.—The criteria for selection of a regional technology alliance to receive financial assistance under this section shall include the following:

¿(1) The potential for the activities of the regional technology alliance to result in—

¿(A) increased availability of technology for the enhancement of national security; and

¿(B) the emergence in such region of new firms that are capable of applying dual-use critical technologies.

¿(2) The potential for the regional technology alliance to be able to apply critical technology research and development sup-

ported or conducted by Federal laboratories and institutions of higher education in the advancement of national security interests of the United States.

¿(3) The potential for the regional technology alliance to sustain itself through support from industry and other non-Federal Government sources after termination of the Federal assistance provided pursuant to this section.

¿(4) The level of involvement of appropriate State and local agencies, institutions of higher education, and private, nonprofit entities in the regional technology alliance.

¿(5) The potential for the regional technology alliance to increase industrial competitiveness.

¿(6) The potential for the regional technology alliance to meet the needs of small- and medium-sized defense-dependent companies across multiple activity areas including—

¿(A) outreach;

¿(B) manufacturing education and training;

¿(C) technology development;

¿(D) technology deployment; and

¿(E) business counseling.

¿(7) Such other criteria as the Secretary prescribes.

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§ 2516. Military-Civilian Integration and Technology Transfer Advisory Board

(a) * * *

(b) GOALS.—The goals of the Advisory Board are to ensure, in furtherance of the national security objectives set forth in section 2501(a) of this title—

(1) the effective integration of commercial technologies and best practices into defense industries;

(2) the efficient transfer of defense technologies to civilian industries, where applicable; *and*

(3) that civilian markets are appropriately integrated into dual-use technology development strategies¿; and .

¿(4) that dual-use critical technologies are used in carrying out defense reinvestment, diversification, and conversion activities described in section 2501(b) of this title.

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§ 2519. Federal Defense Laboratory Diversification Program

(a) * * *

(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as "partnerships") between a Department of Defense laboratory and eligible firms and nonprofit research corporations ¿referred to in section 2511(b) of this title . A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

* * * * * * *

(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—¿(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

¿(2) The regulations prescribed pursuant to section 2511(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

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(f) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in ¿section 2511(f) *section 2511(d)* of this title.

¿§ 2520. Navy Reinvestment Program

¿(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall conduct a program in accordance with this section for the purpose of promoting cooperation between the Department of the Navy and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

¿(b) PARTNERSHIPS.—The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as "partnerships") between Department of the Navy entities and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

¿(c) PROGRAM REQUIREMENTS AND ADMINISTRATION.—Subsections (c) through (f) of section 2519 of this title shall apply in the administration of the program.

¿(d) ADDITIONAL SELECTION CRITERIA.—The selection criteria for a proposed partnership for establishment under this section shall also include the potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for Navy acquisition programs.

¿(e) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.

SUBCHAPTER IV—MANUFACTURING TECHNOLOGY AND DUAL-USE ASSISTANCE EXTENSION PROGRAMS

Sec.
¿2521. National Defense Manufacturing Technology Program.
¿2522. Defense Advanced Manufacturing Technology Partnerships.
¿2523. Manufacturing extension programs.
¿2524. Defense dual-use assistance extension program.
¿2525. Manufacturing Science and Technology Program.
2525. Manufacturing technology program.

¿§ 2521. National Defense Manufacturing Technology Program

¿(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a National Defense Manufacturing Technology Program. The Secretary shall use the program to—

¿(1) provide centralized guidance and direction (including goals, milestones, and priorities) to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

¿(2) direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

¿(3) improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

¿(4) promote dual-use manufacturing processes;

¿(5) disseminate information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

¿(6) sustain and enhance the skills and capabilities of the manufacturing work force;

¿(7) promote high-performance work systems (with development and dissemination of production technologies that build upon the skills and capabilities of the work force), high levels of worker education and training; and

¿(8) ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

¿(b) RELATIONSHIP TO NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PLAN.—The Secretary shall ensure that the program is developed and implemented in accordance with the manufacturing technology guidance set forth in the national technology and industrial base plan prepared under section 2506 of this title.

¿(c) REVISIONS.—The Secretary shall revise the program not later than March 15 of each year through fiscal year 1997 and of each odd-numbered year thereafter. Each revision shall identify each manufacturing technology program, project, or activity of the Department of Defense and the amounts provided for each such program, project, and activity in the budget submitted by the President under section 1105 of title 31 for the fiscal year beginning in that year.

¿§ 2522. Defense Advanced Manufacturing Technology Partnerships

¿(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense may, in order to further the national security objectives set forth in section 2501(a) of this title, enter into cooperative arrangements (hereinafter in this section referred to as ''partnerships'') with entities referred to in subsection (b) in order to encourage and

provide for research and development of advanced manufacturing technologies with the potential for having a broad range of military and dual-uses applications.

¿(b) NON-DEPARTMENT OF DEFENSE PARTICIPANTS.—In the case of each partnership, the entities with which the Secretary enters into the partnership shall include two or more eligible firms or a nonprofit research corporation established by two or more eligible firms and may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, institutions of higher education, agencies of State governments, and other entities that participate in the partnership by supporting the activities conducted by such firms or corporations under this section. A partnership may include other organizations considered appropriate by the Secretary of Defense.

¿(c) ADMINISTRATION OF PROGRAM.—The Secretary shall prescribe regulations that, to the extent practicable, apply the same requirements and authorities in the administration of this section as apply under subsections (c) through (e) of section 2511 of this title in the case of the dual-use critical technologies partnerships program provided for in that section.

¿(d) SELECTION CRITERIA.—The criteria for the selection of proposed partnerships for establishment under this section shall include the following criteria:

¿(1) The criteria specified in section 2511(f) of this title.

¿(2) The extent to which the partnerships provide for the development of advanced manufacturing technologies usable for significantly reducing the potential health, safety, and environmental hazards associated with existing manufacturing processes.

¿(3) Such other criteria as prescribed by the Secretary of Defense, in consultation with the Council.

¿§ 2523. Manufacturing extension programs

¿(a) USE OF PROGRAMS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, and in coordination with the Secretary of Commerce and the Secretary of Energy, shall promote the improvement of the subtier defense industry through use of manufacturing extension programs. Manufacturing extension programs so used shall include programs carried out by the Secretary of Commerce pursuant to section 25 and section 26 of the Act of March 3, 1901 (15 U.S.C. 278k and 278l) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note).

¿(b) PROGRAM REQUIREMENTS.—(1) The Secretary of Defense, in consultation with the Secretary of Commerce, shall, in order to further the national security objectives set forth in section 2501(a) of this title, establish a program—

¿(A) to support existing manufacturing extension programs of regions, States, local governments, and private, nonprofit organizations;

¿(B) to promote the development of a broad range of such programs that will benefit both the national security and the economic prosperity of the United States; and

¿(C) to increase the involvement of appropriate segments of the private sector in activities that improve the manufacturing quality, productivity, and performance of United States-based small manufacturing firms.

¿(2) In awarding financial assistance under the program, the Secretary, on the basis of merit pursuant to a competitive selection process, shall select manufacturing extension programs that demonstrate evidence of the following:

¿(A) Comprehensive and high quality services, including staff with significant experience in industrial manufacturing.

¿(B) Significant involvement by, and support from, private industry.

¿(C) The potential for assisting a significant number of United States-based small manufacturing firms with a limited expenditure of Federal funds.

¿(3)(A) The Secretary shall ensure that the amount of financial assistance furnished by the Federal Government to a manufacturing extension program under this subsection may not exceed 50 percent of the total cost of the program. Financial assistance shall be provided to a recipient program for a period of five years unless such financial assistance is earlier terminated for good cause. Recipients of such financial assistance shall be required to report to the Secretary annually beginning one year after the date that such financial assistance is initiated. Such report shall include a description of the progress of the recipient program in meeting the objectives set out in paragraph (1).

¿(B) The Secretary of Defense shall require a major evaluation of each manufacturing extension program receiving financial assistance under this subsection. The evaluation shall be conducted during the third year that such program receives such financial assistance. If, on the basis of such evaluation, the Secretary finds that the financial assistance to the extension program should be terminated for good cause, the Secretary shall provide sufficient financial assistance to terminate that program. The amount of that assistance may not exceed the amount that would otherwise have been provided for continuing the financial assistance to the recipient program through the end of the fourth year.

¿(C) Subparagraphs (A) and (B) do not prohibit a recipient program from reapplying for financial assistance under this subsection upon the expiration or termination of the furnishing of financial assistance under this subsection. The application for additional financial assistance shall be subject to the requirements and procedures set out in this subsection in the same manner and to the same extent as initial applications for financial assistance under this subsection.

¿(D) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a manufacturing extension program for the purpose of calculating the share of the costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of the program. Any such funds so used may be con-

sidered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the program from non-Federal sources.

¿(4) The Secretary of Defense and the Secretary of Commerce shall enter into an agreement for carrying out the program established pursuant to this subsection. The agreement shall include procedures to ensure that the program is fully coordinated with related manufacturing programs of the Department of Commerce.

¿§ 2524. Defense dual-use assistance extension program

¿(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in consultation and coordination with the Secretary of Energy and the Secretary of Commerce, shall establish a program to further the national security objectives set forth in section 2501(a) of this title and the defense reinvestment, diversification, and conversion program objectives set forth in section 2501(b) of this title by providing support to entities referred to in subsection (b) for programs described in that subsection.

¿(b) PROGRAMS SUPPORTED.—The Secretary may provide support under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist businesses economically dependent on Department of Defense expenditures to acquire dual-use capabilities through the provision under those programs of the following forms of assistance:

¿(1) Assistance in converting from government-oriented management, production, training, and marketing practices to commercial practices.

¿(2) Assistance in acquiring and using public and private sector resources, literature, and other information concerning—

¿(A) research, development, and production processes and practices;

¿(B) identification of technologies and products having the potential for defense and nondefense commercial applications;

¿(C) marketing practices and opportunities;

¿(D) identification of potential suppliers, partners, and subcontractors;

¿(E) identification of opportunities for government support, including support through grants, contracts, partnerships, and consortia;

¿(F) enhancement of workforce skills and capabilities, including—

¿(i) development and introduction of high-performance work systems, workforce literacy programs, and programs for worker education and training;

¿(ii) other programs that build upon the skills and capabilities of the workforce; and

¿(G) trade and export assistance.

¿(3) Loan guarantees to small business concerns and medium-sized business concerns that are economically dependent

on defense expenditures, under the terms and conditions specified under other applicable law.

¿(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title.

¿(2) Subject to subsection (d), the Secretary may provide a program referred to in subsection (b) with technical and other assistance.

¿(3) The Secretary is authorized to carry out a program to provide assistance to small businesses that are economically dependent on defense expenditures to obtain access to a national network of scientists and engineers, and to information resources (including access through on-line data bases to local, national, and international technical and business literature encompassing a wide range of technologies), that can help minimize technical risk and thereby facilitate the development and commercialization of new products.

¿(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary to a program under this section does not exceed 50 percent of the total cost of the program.

¿(2) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a program under this section for the purpose of calculating the share of the costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of the program. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the program from non-Federal sources.

¿(3) The Secretary shall consider a program proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated program costs. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the program from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated program costs, the Secretary shall revoke the selection of the program proposal submitted by the small business concern.

¿(e) SPECIAL REQUIREMENTS REGARDING LOAN GUARANTEES.—(1) The Secretary shall carry out the loan guarantee program authorized under subsection (b)(3) during any fiscal year for which funds are specifically made available to cover the costs of loan guarantees to be issued pursuant to such subsection.

¿(2) In addition to the selection criteria specified in subsection (f), the selection criteria in the case of the loan guarantee program under subsection (b)(3) shall also include the following:

¿(A) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

¿(B) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

¿(C) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

¿(3) To be eligible for a loan guarantee under subsection (b)(3), a borrower must be able to demonstrate to the satisfaction of the Secretary that at least 25 percent of the value of the borrower's sales during the preceding fiscal year were derived from—

¿(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

¿(B) subcontracts in support of defense-related prime contracts.

¿(4) The maximum amount of loan principal that the Secretary may guarantee under the loan guarantee program during a fiscal year may not exceed—

¿(A) $1,250,000, with respect to a small business concern; and

¿(B) $10,000,000 with respect to a medium-sized business concern.

¿(f) SELECTION PROCESS AND CRITERIA.—Competitive procedures shall be used in the selection of programs to receive assistance under this section. The criteria for the selection of a program to receive assistance under this section shall include the following:

¿(1) The extent to which the program advances and enhances the national security objectives set forth in section 2501(a) of this title and the reinvestment, diversification, and conversion program objectives set forth in section 2501(b) of this title.

¿(2) The technical excellence of the program.

¿(3) The qualifications of the personnel proposed to participate in the program's research activities.

¿(4) The adequacy of timely private sector investment in activities that is sufficient to achieve the goals and objectives of the programs.

¿(5) The potential effectiveness of the program in the conversion of businesses (and their work forces) from capabilities that make the companies economically dependent on Department of Defense expenditures to capabilities having defense and nondefense commercial applications.

¿(6) The ability of the program to assist businesses (and their work forces) that are adversely affected by significant reductions in Department of Defense spending.

¿(7) The extent of the financial commitment by sources other than the Department of Defense.

¿(8) The extent to which the program would supplement, rather than duplicate, other available services.

¿(9) The likelihood that, within five years after the commencement of assistance for a program under this section (or a lesser period established by the Secretary), Department of Defense assistance will not be necessary to sustain the program.

¿(10) Such other criteria as the Secretary prescribes.

¿(g) DEFINITION.—In this section, the "medium-sized business concern" means a business concern that is not more than two times the maximum size specified by the Administrator of the Small Business Administration for purposes of determining whether a business concern furnishing a product or service is a small business concern.

¿(h) TERMINATION OF AUTHORITY.—After September 30, 1995, funds may be provided by the Department of Defense under this section only for programs referred to in subsection (b) for which funds have been provided by the Department of Defense under this section on or before that date. No funds may be provided by the Department of Defense under this section for a program referred to in subsection (b) after September 30, 1998.

§ 2525. Manufacturing ¿science and technology program

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Manufacturing ¿Science and Technology Program to further the national security objectives of section 2501(a) of this title. The Under Secretary of Defense for Acquisition and Technology shall administer the program.

* * * * * * *

(d) COMPETITION AND COST SHARING.—(1) * * *

(2) A grant may not be awarded under the program, and a contract, cooperative agreement, or other transaction may not be entered into under the program, on any basis other than a cost-sharing basis unless the Secretary of Defense determines that the grant, contract, cooperative agreement, or other transaction, as the case may be, is for a program that—

(A) is not likely to have any immediate and direct commercial application; ¿or

(B) is of sufficiently high risk to discourage cost sharing by non-Federal Government sources¿. *; or*

(C) will be carried out by an institution of higher education.

(3) At least 25 percent of the funds available for the program each fiscal year shall be used for awarding grants and entering into contracts, cooperative agreements, and other transactions on a cost-share basis under which the ratio of recipient costs to Government costs is two to one.

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SUBCHAPTER V—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

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§ 2534. Miscellaneous limitations on the procurement of goods other than United States goods

(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure any of the following items only if the manufacturer of the item satisfies the requirements of subsection (b):

(1) * * *

* * * * * * *

¿(3) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

(3) VESSEL COMPONENTS.—(A) The following components of vessels:

(i) Air circuit breakers.

(ii) Vessel propellers with a diameter of six feet or more, if the propellers incorporate only castings poured and finished in the United States.

(iii) Welded shipboard anchor and mooring chain with a diameter of four inches or less.

(B) The following components of vessels, to the extent they are unique to marine applications: ship and marine cable assemblies, hose assemblies, hydraulics and pumps for steering, gyrocompasses, marine autopilots, electronic navigation chart systems, attitude and heading reference units, power supplies, and steering controls.

* * * * * * *

(c) APPLICABILITY TO CERTAIN ITEMS.—

(1) * * *

* * * * * * *

(3) BALL BEARINGS AND ROLLER BEARINGS.—Subsection (a)(5) and this paragraph shall cease to be effective on October 1, ¿1995 *2000*.

* * * * * * *

(g) INAPPLICABILITY TO CONTRACTS UNDER SIMPLIFIED ACQUISITION THRESHOLD.—*(1)* This section does not apply to a contract or subcontract for an amount that does not exceed the simplified acquisition threshold.

(2) Paragraph (1) does not apply to contracts for items described in subsection (a)(5) (relating to ball bearings and roller bearings).

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§ 2539b. Availability of samples, drawings, information, equipment, materials, and certain services

(a)

* * * * * * *

(c) FEES.—Fees for services made available under subsection (a)(3) shall be established in the regulations prescribed pursuant to subsection (a). Such fees may not exceed the amount necessary to recoup the direct *and indirect* costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

* * * * * * *

SUBCHAPTER VI—DEFENSE EXPORT LOAN GUARANTEES

Sec.
2540. Establishment of loan guarantee program.
2540a. Transferability.
2540b. Limitations.
2540c. Fees charged and collected.
2540d. Definitions.

§ 2540. Establishment of loan guarantee program

(a) ESTABLISHMENT.—In order to meet the national security objectives in section 2501(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

(1) A member nation of the North Atlantic Treaty Organization (NATO).

(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title.

(3) A country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of March 31, 1995.

(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATION ACTS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

§ 2540a. Transferability

A guarantee issued under this subchapter shall be fully and freely transferable.

§ 2540b. Limitations

(a) TERMS AND CONDITIONS OF LOAN GUARANTEES.—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(b) LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(c) NO RIGHT OF ACCELERATION.—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this subchapter, other than in accordance with the original payment terms of the loan.

§ 2540c. Fees charged and collected

(a) IN GENERAL.—The Secretary of Defense shall charge a fee (known as "exposure fee") for each guarantee issued under this subchapter.

(b) AMOUNT.—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under this section with respect to a loan guarantee shall be fixed in an amount sufficient to meet potential liabilities of the United States under the loan guarantee.

(c) PAYMENT TERMS.—The fee for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

§ 2540d. Definitions

In this subchapter:

(1) The terms "defense article", "defense services", and "design and construction services" have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

(2) The term "cost", with respect to a loan guarantee, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).

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CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

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SUBCHAPTER II—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO THE ARMED FORCES

Sec.
2541. Equipment and barracks: national veterans' organizations.

* * * * * * *

2554. Logistical support and personnel services: national and international sporting events.

* * * * * * *

§ 2544. Equipment and other services: Boy Scout Jamborees

(a) * * *

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(g) In the case of a Boy Scout Jamboree held on a United States military installation, the Secretary of Defense may provide personnel services and logistical support at the military installation in addition to the support authorized under subsections (a) and (d).

¿(g) *(h)* Other departments of the Federal Government are authorized, under such regulations as may be prescribed by the Secretary thereof, to provide to the Boy Scouts of America, equipment and other services, under the same conditions and restrictions prescribed in the preceding subsections for the Secretary of Defense.

* * * * * * *

§ 2551. Humanitarian assistance

(a) * * *

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¿(b) AUTHORITY TO TRANSFER FUNDS.—To the extent provided in defense authorization Acts for a fiscal year, the Secretary of Defense may transfer to the Secretary of State funds appropriated for the purposes of this section to provide for—

¿(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

¿(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

¿(c) TRANSPORTATION OF HUMANITARIAN RELIEF.—(1) Transportation of humanitarian relief provided with funds appropriated for the purposes of this section shall be provided under the direction of the Secretary of State.

¿(2) Such transportation shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide such transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

¿(3) Nothing in this subsection shall be construed as waiving the requirements of section 2631 of this title and sections 901(b) and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) and 1241f).

¿(d) *(b)* AVAILABILITY OF FUNDS.—To the extent provided in appropriation Acts, funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended.

¿(e) STATUS REPORTS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance pursuant to this section.

¿(2)(A) Whenever there is enacted a defense authorization Act that contains an authorization of appropriations for humanitarian assistance, a report referred to in paragraph (1) shall be submitted as provided in that paragraph not later than 60 days after the date of the enactment of that Act.

¿(B) In addition to reports submitted as provided in subparagraph (A), a report shall be submitted under paragraph (1) not later than June 1 of each year.

¿(3) Each report required by paragraph (1) shall cover all provisions of law, contained in defense authorization Acts, that authorize appropriations for humanitarian assistance to be available for the purposes of this section. A report submitted after the obligation of all amounts appropriated pursuant to such a provision of law shall not cover that provision of law.

¿(4) Subject to paragraph (3), a report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

¿(A) The total amount of funds obligated for humanitarian relief under this section.

¿(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section.

¿(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title. The description shall include the date of the transfer, to whom the transfer is made, the quantity of items transferred, the acquisition value of the items transferred, and the value of the items at the time of the transfer.

(c) STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (f) an annual report on the provision of humanitarian assistance pursuant to this section for the prior fiscal year. The report shall be submitted each year at the time of the budget submission by the President for the next fiscal year.

(2) Each report required by paragraph (1) shall cover all provisions of law that authorize appropriations for humanitarian assistance to be available from the Department of Defense for the purposes of this section.

(3) Each report under this subsection shall set forth the following information regarding activities during the previous fiscal year:

(A) The total amount of funds obligated for humanitarian relief under this section.

(B) The number of scheduled and completed transportation missions for purposes of providing humanitarian assistance under this section.

(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title. The description shall include the date of the transfer, the entity to whom the transfer is made, and the quantity of items transferred.

¿(f) *(d)* REPORT REGARDING RELIEF FOR UNAUTHORIZED COUNTRIES.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify ¿the Committees on Appropriations and on Armed Services of the Senate and House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives of the *the congressional committees specified in sub-*

section (f) and the Committees on Appropriations of the Senate and House of Representatives of the Secretary's intention to provide such transportation. The notification shall be submitted not less than 15 days before the commencement of such transportation.

¿(g) *(e)* DEFINITION.—In this section, the term "defense authorization Act" means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including authorizations of appropriations for the activities described in paragraph (7) of section 114(a) of this title.

(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsections (c)(1) and (d) are the following:

(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(2) The Committee on National Security and the Committee on International Relations of the House of Representatives.

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§ 2554. Logistical support and personnel services: national and international sporting events

(a) AUTHORITY TO PROVIDE SUPPORT.—Subject to subsection (b), the Secretary of Defense may provide logistical support and personnel services in connection with a national or international sporting event held in the United States, the Commonwealth of Puerto Rico, or a Territory or possession of the United States.

(b) CONDITIONS ON SUPPORT.—The Secretary of Defense may make logistical support and personnel services available in connection with a national or international sporting event only if the entity or organization receiving the support or services agrees to reimburse the Secretary for the cost of providing the support or services. The Secretary may waive the requirement for reimbursement if the Secretary determines that the sporting event did not result in a profit for the sponsoring entity or organization.

(c) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the armed forces providing logistical support and personnel services in connection with a national or international sporting event shall not be included in determining the cost of the support or services under subsection (b).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide the logistical support and personnel services.

(3) If logistical support and personnel services in connection with a national or international sporting event are provided by civilian employees of the Department of Defense, the time during which the employees provide such support or services shall be considered to be creditable service for purposes of determining eligibility for an annuity under chapter 83 or 84 of title 5.

(d) DEPOSIT OF AMOUNTS RECEIVED.—Amounts received by the Secretary of Defense under subsection (b), shall be credited to the special event account available to the Department of Defense.

(e) FUNDS AVAILABLE TO PROVIDE SUPPORT.—Subject to such limitations as may be provided in appropriation Acts, only those funds that, on the date of the enactment of this section, are in the special

event account available to the Department of Defense and amounts received under subsection (b) after that date may be used to provide logistical support and personnel services in connection with a national or international sporting event.

CHAPTER 153—EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY

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§ 2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange

(a) * * *

(b)(1) Subject to paragraph (2), the Secretary concerned may exchange items described in subsection (c) that are ¿not needed by the armed forces for similar items held by any individual, organization, institution, agency, or nation or for search, salvage, transportation, and restoration services which directly benefit the historical collection of the armed forces. *not needed by the armed forces for any of the following items or services if they directly benefit the historical collection of the armed forces:*

(A) Similar items held by any individual, organization, institution, agency, or nation.

(B) Conservation supplies, equipment, facilities, or systems.

(C) Search, salvage, or transportation services.

(D) Restoration, conservation, or preservation services.

(E) Educational programs.

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CHAPTER 155—ACCEPTANCE OF GIFTS AND SERVICES

Sec.
2601. General gift funds.

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2610. Acceptance of monetary awards from competition for excellence.

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§ 2610. Acceptance of monetary awards from competition for excellence

(a) ACCEPTANCE AUTHORIZED.—The Secretary of Defense may accept any monetary award given to the Department of Defense by a nongovernmental entity as an award in competition recognizing excellence or innovation in providing services or administering programs.

(b) DISPOSITION OF AWARDS.—(1) Subject to paragraph (2), a monetary award accepted under subsection (a) shall be credited to the appropriation supporting the operation of the command, installation, or other activity that is recognized for the award and, in such amount as is provided in advance in appropriation Acts, shall be available for the same purposes as the underlying appropriation.

(2) Subject to such limitations as may be provided in appropriation Acts, the Secretary of Defense may disburse an amount not to exceed 50 percent of the monetary award to persons who are responsible for the excellence or innovation recognized by the award. A per-

son may not receive more than $10,000 under the authority of this paragraph from any monetary reward.

(c) INCIDENTAL EXPENSES.—Subject to such limitations as may be provided in appropriation Acts, appropriations available to the Department of Defense may be used to pay incidental expenses incurred to compete in a competition described in subsection (a) or to accept a monetary award under this section.

(d) REGULATIONS AND REPORTING.—(1) The Secretary of Defense shall prescribe regulations to determine the disposition of any monetary awards accepted under this section and the payment of incidental expenses under subsection (c).

(2) The Secretary of Defense shall submit to Congress an annual report describing the disposition of any monetary awards accepted under this section and the payment of any incidental expenses under this subsection (c).

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CHAPTER 157—TRANSPORTATION

Sec.
2631. Supplies: preference to United States vessels.

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2643. Commissary and exchange services: transportation overseas.

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§ 2634. Motor vehicles: for members on change of permanent station

(a) * * *

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(d) When the Secretary concerned makes a determination under ¿section 406(l) of title 37 *section 406(k) of title 37* that the dependents of a member on a permanent change of station are unable to accompany the member to an overseas duty station because of unexpected and uncontrollable circumstances, and the member shipped a motor vehicle pursuant to this section in anticipation of a dependent accompanying the member to the new duty station, the member may reship or transship such motor vehicle in accordance with this section.

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§ 2643. Commissary and exchange services: transportation overseas

The Secretary of Defense shall give the officials responsible for operation of commissaries and military exchanges the authority to negotiate directly with private carriers for the most cost-effective transportation of commissary and exchange supplies by sea without relying on the Military Sealift Command or the Military Traffic Management Command. Section 2631 of this title, regarding the preference for vessels of the United States or belonging to the United States in the transportation of supplies by sea, shall apply to the ne-

gotiation of transportation contracts under the authority of this section.

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CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NONEXCESS PROPERTY

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§ 2667. Leases: non-excess property

(a) * * *

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(d)(1)(A) All money rentals received pursuant to leases entered into by the Secretary of a military department under this section shall be deposited in a special account in the Treasury established for such military department, except—

(i) amounts paid for utilities and services furnished lessees by the Secretary; and

(ii) money rentals referred to in paragraph (4) *or (5).*

* * * * * * *

(5) Money rentals received by the United States from a lease under subsection (f) shall be deposited into the relevant account established under section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) or section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

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CHAPTER 160—ENVIRONMENTAL RESTORATION

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§ 2703. Environmental restoration transfer account

(a) * * *

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¿(c) OBLIGATION OF TRANSFERRED AMOUNTS.—Funds transferred under subsection (b) may only be obligated or expended from the account or fund to which transferred in order to carry out the functions of the Secretary under this chapter or environmental restoration functions under any other provision of law.

¿(d) *(c)* BUDGET REPORTS.—In proposing the Budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amount requested for environmental restoration programs of the Department of Defense under this chapter or any other Act.

¿(e) AMOUNTS RECOVERED UNDER CERCLA.—Amounts recovered under section 107 of CERCLA for response actions of the Secretary shall be credited to the transfer account.

(d) AMOUNTS RECOVERED.—The following amounts shall be credited to the transfer account:

(1) Amounts recovered under section 107 of CERCLA for response actions of the Secretary.

(2) Any other amounts recovered by the Secretary or the Secretary of the military department concerned from a contractor, insurer, surety, or other person to reimburse the Department of Defense for any expenditure for environmental response activities.

¿(f) *(e)* PAYMENT OF FINES AND PENALTIES.—None of the funds appropriated to the transfer account for fiscal years 1995 through 1999 may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the transfer account.

§ 2704. Commonly found unregulated hazardous substances

(a) * * *

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(c) DOD SUPPORT.—The Secretary of Defense shall transfer to the Secretary of Health and Human Services such toxicological data¿, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary (1) for the preparation of toxicological profiles under subsection (b) or (2) for other health related activities under section 104(i) of CERCLA. The Secretary of Defense and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding the manner in which this section shall be carried out¿, including the manner for transferring funds and personnel and for coordination of activities under this section .

(d) EPA HEALTH ADVISORIES.—

(1) * * *

* * * * * * *

(3) DOD SUPPORT FOR HEALTH ADVISORIES.—The Secretary of Defense shall transfer to the Administrator such toxicological data¿, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such health advisories. The Secretary and the Administrator shall enter into a memorandum of understanding regarding the manner in which this subsection shall be carried out¿, including the manner for transferring funds and personnel and for coordination of activities under this subsection .

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CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
2771. Final settlement of accounts: deceased members.

* * * * * * *

2782. Damage to real property: disposition of amounts recovered.

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§ 2773. Designation, powers, and accountability of deputy disbursing officials

(a)(1) ¿With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of

the military department *Subject to paragraph (3), a disbursing official of the Department of Defense* may designate a deputy disbursing official—

(A) * * *

* * * * * * *

(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Defense or, in the case of a disbursing official of a military department, the Secretary of that military department.

(b)(1) If a disbursing official of ¿any military department *the Department of Defense* dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the ¿2d month *second month* after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

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§ 2782. Damage to real property: disposition of amounts recovered

Except as provided in section 2775 of this title, amounts recovered for damage caused to real property under the jurisdiction of the Secretary of a military department or, with respect to the Defense Agencies, under the jurisdiction of the Secretary of Defense shall be credited to the account available for the repair or replacement of the real property at the time of recovery. In such amounts as are provided in advance in appropriation Acts, amounts so credited shall be available for use for the same purposes and under the same circumstances as other funds in the account.

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CHAPTER 169—MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Subchapter	Sec.
I. Military Construction	2801
* * * * * * *	
IV. Alternative Provision of Military Family Housing	*2871*

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SUBCHAPTER I—MILITARY CONSTRUCTION

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§ 2805. Unspecified minor construction

(a)(1) Except as provided in paragraph (2), within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out minor military construction projects not otherwise authorized by law. A minor military construction project is a military construction project (1) that

is for a single undertaking at a military installation, and (2) that has an approved cost equal to or less than $1,500,000. *However, if the military construction project is intended solely to correct a life, health, or safety deficiency, a minor military construction project may have an approved cost equal to or less than $3,000,000.*

* * * * * * *

(c)(1) Except as provided in paragraph (2), the Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified military construction project costing ¿not more than $300,000. *not more than—*

(A) $1,000,000, in the case of an unspecified military construction project intended solely to correct a life, health, or safety deficiency; or

(B) $300,000, in the case of other unspecified military construction projects.

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SUBCHAPTER II—MILITARY FAMILY HOUSING

Sec.
2821. Requirement for authorization of appropriations for construction and acquisition of military family housing.
* * * * * * *
¿2837. Limited partnerships with private developers of housing.
* * * * * * *

§ 2828. Leasing of military family housing

(a) * * *

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(e)(1) Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and operation) may not exceed $20,000 per unit per year, except that ¿300 units *450 units* may be leased in foreign countries for not more than $25,000 per unit per year. These maximum lease amounts may be waived by the Secretary concerned with respect to not more than a total of ¿220 such units *350 such units* that are leased for incumbents of special positions or for personnel assigned to Defense Attache Offices or that are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

(2) In addition to the ¿300 units *450 units* of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Navy may lease not more than 2,000 units of family housing in Italy subject to that maximum lease amount.

* * * * * * *

¿§ 2837. Limited partnerships with private developers of housing

¿(a) LIMITED PARTNERSHIPS.—(1) In order to meet the housing requirements of members of the naval service, and the dependents of such members, at a military installation described in paragraph

(2), the Secretary of the Navy may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not less than five percent, but not more than 35 percent, of the development costs under a limited partnership.

¿(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

¿(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

¿(1) a suitable preference will be afforded members of the naval service in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

¿(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

¿(c) SELECTION OF INVESTMENT OPPORTUNITIES.—(1) The Secretary shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title, to enter into limited partnerships under subsection (a).

¿(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary. The Secretary may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees.

¿(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the "Navy Housing Investment Account".

¿(2) There shall be deposited into the Account—

¿(A) such funds as may be authorized for and appropriated to the Account; and

¿(B) any proceeds received by the Secretary from the repayment of investments or profits on investments of the Secretary under subsection (a).

¿(3) In such amounts as is provided in advance in appropriation Acts, the Account shall be available for contracts, investments, and expenses necessary for the implementation of this section.

¿(4) The Secretary may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless the Account contains sufficient funds, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

¿(e) NAVY HOUSING INVESTMENT BOARD.—(1) The Secretary of the Navy shall establish a board to be known as the "Navy Housing Investment Board", which shall have the duties—

¿(A) of advising the Secretary regarding those proposed limited partnerships under subsection (a), if any, that are financially and otherwise sound investments for meeting the objectives of this section;

¿(B) of administering the Account established under subsection (d); and

¿(C) of assisting the Secretary in such other ways as the Secretary determines to be necessary and appropriate to carry out this section.

¿(2) The Navy Housing Investment Board shall be composed of seven members appointed for a two-year term by the Secretary. Among such members, the Secretary may appoint two persons from the private sector who have knowledge and experience in the financing and the construction of housing. The Secretary shall designate one of the members as chairperson of the Board.

¿(3) Members of the Navy Housing Investment Board, other than those members regularly employed by the Federal Government, may be paid while attending meetings of the Board or otherwise serving at the request of the Secretary, compensation at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board. Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5.

¿(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Navy Housing Investment Board.

¿(f) REPORT.—Not later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit to Congress a report specifying the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of all other expenditures made pursuant to such section during such fiscal year.

¿(g) TRANSFER OF NAVY LANDS PROHIBITED.—Nothing in this section shall be construed to permit the Secretary, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary.

¿(h) EXPIRATION AND TERMINATION OF AUTHORITIES.—(1) The authority of the Secretary to enter into a limited partnership under this section shall expire on September 30, 1999.

¿(2) The Navy Housing Investment Board shall terminate on November 30, 1999.

* * * * * * *

SUBCHAPTER IV—ALTERNATIVE PROVISION OF MILITARY FAMILY HOUSING

Sec.
2871. Definitions.
2872. General limitations and authorities.
2873. Department of Defense Family Housing Improvement Fund.
2874. Limited partnerships with private developers of housing.
2875. Housing finance and acquisition authorities.
2876. Expiration of authority.

§ 2871. Definitions

In this subchapter:

(1) The term "construction" means the construction of additional units of military family housing and ancillary supporting facilities or the replacement or renovation of existing units or ancillary supporting facilities.

(2) The term "ancillary supporting facilities" means facilities related to military family housing, such as day care centers, community centers, housing offices, maintenance complexes, tot lots, and parks. Such term does not include commercial facilities that could not otherwise be constructed using funds appropriated to the Department of Defense.

(3) The term "contract" includes any contract, lease, or other agreement entered into under the authority of this subchapter.

(4) The term "Fund" means the Department of Defense Family Housing Improvement Fund established under section 2873(a) of this title.

§ 2872. General limitations and authorities

(a) USE OF AUTHORITIES.—The Secretary concerned may use the authorities provided by this subchapter, singly or in conjunction with other authorities provided under this chapter, to help meet the military family housing needs of members of the armed forces and the dependents of such members at military installations at which there is a shortage of suitable housing for members and their dependents.

(b) TERM.—Subject to section 2873(d)(2) of this title, a contract entered into under this subchapter may be for such term as the Secretary concerned considers to be in the best interests of the United States.

(c) PHASED OCCUPANCY.—A contract under this subchapter may provide for phased occupancy of completed family housing units under one or more interim leases during the period of the construction or renovation of the housing units. In no case shall any such interim lease extend beyond the construction or renovation period.

(d) UNIT SIZE AND TYPE.—Section 2826 of this title shall not apply to military family housing units acquired or constructed under this subchapter, except that room and floor area size of such housing units should generally be comparable to private sector housing available in the same locality. When acquiring existing family housing in lieu of construction under section 2824 of this title, the Secretary concerned may vary the number of types of units to be acquired as long as the total number of units is substantially the same as authorized by law.

(e) LOCATION.—The Secretary concerned may use the authorities provided under this subchapter to acquire or construct military family housing units and ancillary supporting facilities in the United States, the Commonwealth of Puerto Rico, and in any territory or possession of the United States.

(f) NOTIFICATION REQUIRED FOR CONTRACTS.—The Secretary concerned may not enter into a contract under this subchapter until after the end of the 21-day period beginning on the date the Secretary concerned submits to the appropriate committees of Congress written notice of the nature and terms of the contract.

(g) ASSIGNMENTS.—The Secretary concerned may assign members of the armed forces to any military family housing obtained using the authorities provided in this subchapter in accordance with section 403(b) of title 37.

(h) ALLOTMENTS.—The Secretary concerned may require a member of the armed forces to pay rent by allotment as a condition of occupying military family housing obtained using the authorities provided in this subchapter.

(i) SUPPORTING FACILITIES.—Any contract entered into under this subchapter may include provisions for the construction or acquisition of ancillary supporting facilities.

(j) AUTHORITY TO LEASE OR SELL LAND, HOUSING, AND SUPPORTING FACILITIES.—(1) The Secretary concerned may lease or sell land, housing, and ancillary supporting facilities under the jurisdiction of the Secretary for the purpose of providing additional military family housing or improving existing military family housing under this subchapter, except that the authority to lease or sell real property under this subchapter shall not extend to property located at a military installation approved for closure.

(2) A sale or lease under this subsection may be made for such consideration and upon such terms and conditions as the Secretary concerned shall determine to be consistent with the purposes of this subchapter and the public interest. The acreage and legal description of any property leased or conveyed under this subsection shall be determined by a survey satisfactory to the Secretary concerned.

(3) Section 2667 of this title, the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471), section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), and section 321 of the Act of June 30, 1932 (47 Stat. 412) shall not apply to leases and sales under this subsection.

(4) As part or all of the consideration for the sale or lease of property under this subsection, the Secretary concerned shall require an ancillary agreement under which the person receiving the property agrees to give priority to military members and their dependents in the leasing of existing or new housing units under the control or provided by the person. Such agreements may provide for the payment by the Secretary concerned of security or damage deposits.

§ 2873. Department of Defense Family Housing Improvement Fund

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Department of Defense Family Housing Improvement Fund, which shall be administered

by the Secretary of Defense as a single account. Amounts in the Fund shall be available without fiscal year limitation.

(b) DEPOSITS.—There shall be deposited into the Fund the following:

(1) Amounts authorized for and appropriated into the Fund.

(2) Subject to subsection (c), any amounts that the Secretary of Defense may transfer to the Fund from amounts appropriated to the Department of Defense for construction of military family housing.

(3) Proceeds received from the conveyance or lease of real property under section 2872(j) of this title, income from operations conducted under this subchapter, including refunds of deposits, and any return of capital or return on investments entered into under this subchapter.

(4) Proceeds received by the Secretary concerned from the repayment of investments or profits on investments of the Secretary under section 2874(a) of this title.

(c) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to the Fund under subsection (b)(2) may be made only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the transfer to the appropriate committees of Congress.

(d) USE OF FUNDS.—(1) In such total amount as is provided in advance in appropriation Acts, the Secretary of Defense may use amounts in the Fund for alternative means of financing military family housing and ancillary supporting facilities as authorized in this subchapter.

(2) The Secretary may not enter into a contract under this subchapter unless the Fund contains sufficient amounts, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

(3) The total value in budget authority of all contracts and investments undertaken using the authorities provided in the subchapter shall not exceed $1,000,000,000.

(e) LOANS AND LOAN GUARANTEES.—Loans and loan guarantees may be entered into under this subchapter only to the extent that appropriations of budget authority to cover their costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriations Acts.

(f) ANNUAL REPORT.—The Secretary of Defense shall submit to the appropriate committees of Congress an annual report detailing the expenditures from and deposits into the Fund during the preceding year and the utilization and effectiveness of the authorities provided by this subchapter. The Secretary shall submit the report at the same time that the President submits the budget to Congress under section 1105 of title 31.

§ 2874. Limited partnerships with private developers of housing

(a) LIMITED PARTNERSHIPS.—In order to meet the housing requirements of members of the armed forces, and the dependents of such members, at a military installation described in section 2872(a) of this title, the Secretary concerned may enter into a lim-

ited partnership with one or more private developers to encourage the construction of housing and ancillary supporting facilities within commuting distance of the installation. Section 2875(d) of this title shall apply with respect to the investments the Secretary concerned may make toward development costs under a limited partnership.

(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

(1) a suitable preference will be afforded members of the armed forces in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

(c) SELECTION OF INVESTMENT OPPORTUNITIES.—(1) The Secretary concerned shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title, to enter into limited partnerships under subsection (a).

(2) When a decision is made by the Secretary concerned to enter into a limited partnership under subsection (a), the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary concerned. The Secretary concerned may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees.

(d) HOUSING INVESTMENT BOARDS.—(1) Each Secretary concerned shall establish a housing investment board, which shall have the duties—

(A) of advising the Secretary concerned regarding those proposed limited partnerships under subsection (a), if any, that are financially and otherwise sound investments for meeting the objectives of this section;

(B) of administering amounts in the Account established under section 2873 of this title that are made available to the Secretary concerned to carry out this section; and

(C) of performing such other tasks as the Secretary concerned determines to be necessary and appropriate to assist the Secretary to carry out the duties of the Secretary under this section.

(2) A housing investment board shall be composed of seven members appointed for a two-year term by the Secretary concerned. Among such members, the Secretary concerned may appoint two persons from the private sector who have knowledge and experience in the financing and the construction of housing. The Secretary concerned shall designate one of the members as chairperson.

(3) Members of a housing investment board, other than those members regularly employed by the Federal Government, may be paid while attending meetings of the board or otherwise serving at

the request of the Secretary concerned, compensation at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the board. Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the housing investment boards.

(5) The housing investment boards shall terminate on September 30, 2000.

§ 2875. Housing finance and acquisition authorities

(a) GUARANTEES.—(1) The Secretary concerned may enter into contracts that provide for guarantees, insurance, or other contingent payments to owners, mortgagors, or assignees of housing units and ancillary supporting facilities that are made available for use by members of the armed forces.

(2) Contingencies under which payments may be made under such a contract include the following:

(A) A failure to pay interest or principal on mortgages, generally or as a result of a base closure or realignment, a reduction in force, an extended deployment of assigned forces, or similar contingencies.

(B) A failure to achieve specified occupancy levels of, or rental income from, housing units covered by a contract.

(3) Such contracts may be on such terms and conditions as the Secretary concerned considers necessary or desirable to induce the provision of housing and ancillary supporting facilities, whether by acquisition or construction, for use by members of the armed forces, and to protect the financial interests of the United States.

(b) LEASES.—The Secretary concerned may enter into a contract for the lease of housing units to be acquired or constructed on or near a military installation. Such a contract may provide for the owner of the property to operate and maintain the facilities.

(c) DIFFERENTIAL PAYMENTS.—In entering into contracts under this subchapter, the Secretary concerned may make a differential payment in addition to rental payments made by individual members.

(d) INVESTMENTS.—(1) The Secretary concerned may make investments in nongovernmental entities involved in the acquisition or construction of housing and ancillary supporting facilities on or near a military installation for such consideration and upon such terms and conditions as the Secretary concerned determines to be consistent with the purposes of this subchapter and the public interest.

(2) Such investments may take the form of limited partnership interests, stock, debt instruments, or a combination thereof.

(3) The investment made by the Secretary concerned in an acquisition or construction project under this subsection, whether the investment is in the form of cash, land or buildings under section 2872(j) of this title, or other form, may not exceed 35 percent of the capital costs of the acquisition or construction project.

(e) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned may also enter into collateral incentive agreements in connection with investments made under subsection (d) to ensure that a suitable preference will be afforded members of the armed forces to lease or purchase, at affordable rates, a reasonable number of the housing units covered by the investment contract.

§ 2876. Expiration of authority

The authority of the Secretaries concerned to enter into contracts and partnerships and to make investments under this subchapter shall expire on September 30, 2000.

¿CHAPTER 171—SECURITY AND CONTROL OF SUPPLIES

¿Sec.
¿2891. Security and control of supplies: annual report.
¿2892. Miscellaneous procedures.

¿§ 2891. Security and control of supplies: annual report

¿(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report for each of fiscal years 1992, 1993, 1994 on security and control of Department of Defense supplies. Each such report shall be submitted not later than four months after the end of the fiscal year for which the report is submitted.

¿(b) Each report shall include the following:

¿(1) A summary of each of the physical inventory program plans of the Department of Defense, the Defense Logistics Agency, and the military departments for the fiscal year in which the report is submitted.

¿(2) A discussion of the deficiencies, if any, in the security and control of Department of Defense supplies in the fiscal year preceding the year in which the report is submitted and a discussion of the extent to which such deficiencies have been corrected.

¿(3) A discussion of—

¿(A) research and development projects carried out by the Department of Defense in such preceding fiscal year for the improvement of the inventory and recordkeeping capabilities of the Department;

¿(B) any proposals for expeditious application of any new technology resulting from such projects; and

¿(C) the budget needs for research and development for such purpose in the fiscal year in which the report is submitted and any subsequent fiscal year for which the budget needs have been determined.

¿(4) The budget authority made available to the Department of Defense for inventory control functions in the fiscal year in which the report is submitted and in each of the five fiscal years preceding such fiscal year.

¿(5) The budget authority proposed for such purpose in the budget submitted to Congress under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

¿(6) The budget authority needed for such purpose in each of the five fiscal years following the fiscal year for which such budget is submitted.

¿(7) An evaluation of the effectiveness of supply inventory control in the fiscal year preceding the fiscal year in which the report is submitted, the criteria used by the Secretary to make such evaluation, and the information considered by the Department in making the evaluation, including the value of supplies lost or stolen or for which accountability has otherwise been lost.

¿(8) The aggregate statistics for all incidents of theft, fraud, or breach of security involving Department of Defense supplies that were investigated by military or civilian law enforcement agencies during the fiscal year preceding the fiscal year in which the report is submitted (including incidents involving munitions), a summary description of all such incidents (including the circumstances under which the incidents occurred), and the lessons learned by the Department of Defense from such incidents.

¿(9) A summary description of the cases determined by the Secretary of Defense to be cases of major thefts of Department of Defense supplies during the fiscal year preceding the fiscal year in which the report is submitted, including any case involving a loss in an amount greater than $1,000,000 or a loss of sensitive or classified items.

¿(10) The value, and an analysis, of in-transit losses that occurred during the fiscal year preceding the fiscal year in which the report is submitted.

¿§ 2892. Miscellaneous procedures

¿(a) The Secretary of Defense shall require an investigation of each discrepancy in an accounting for supplies of the Department of Defense involving an amount exceeding the amount determined under procedures prescribed by the Secretary. The Secretary shall prescribe procedures that provide for random investigation of physical inventory discrepancies, regardless of the value of the property involved in the discrepancy.

¿(b) The Secretary shall, to the extent feasible, require that the job junction of supply ordering and the job function of supply receiving be performed by different offices and individuals.

¿(c) The Secretary shall ensure—

¿(1) that the employees of the Department of Defense and members of the armed forces assigned to manage Department of Defense supplies are skilled in the management of such supplies; and

¿(2) that no employee of the Department of Defense and no member of the armed forces is assigned to perform such function for disciplinary reasons.

CHAPTER 172—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

* * * * * * *

§ 2901. Strategic Environmental Research and Development Program

(a) * * *

(b) The purposes of the program are as follows:

(1) To address environmental matters of concern to the Department of Defense ¿and the Department of Energy through support for basic and applied research and development of technologies that can enhance the capabilities of the departments to meet ¿their *its* environmental obligations.

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¿(3) To furnish other governmental organizations and private organizations with data, enhanced data collection capabilities, and enhanced analytical capabilities for use by such organizations in the conduct of environmental research, including research concerning global environmental change.

¿(4) *(3)* To identify technologies developed by the private sector that are useful for Department of Defense and Department of Energy defense activities concerning environmental restoration, hazardous and solid waste minimization and prevention, hazardous material substitution, and provide for the use of such technologies in the conduct of such activities.

§ 2902. Strategic Environmental Research and Development Program Council

(a) * * *

(b) The Council is composed of ¿thirteen *12* members as follows:

(1) The Director of Defense Research and Engineering.

(2) The Vice Chairman of the Joint Chiefs of Staff.

¿(3) The Assistant Secretary of the Air Force responsible for matters relating to space.

¿(4) *(3)* The Deputy Under Secretary of Defense responsible for environmental security.

¿(5) *(4)* The Assistant Secretary of Energy for Defense programs.

¿(6) *(5)* The Assistant Secretary of Energy responsible for environmental restoration and waste management.

¿(7) *(6)* The Director of the Department of Energy Office of Energy Research.

¿(8) *(7)* The Administrator of the Environmental Protection Agency.

¿(9) *(8)* One representative from each of the Army, Navy, Air Force, and Coast Guard¿, who shall be nonvoting members .

¿(10) *(9)* The Executive Director of the Council (appointed pursuant to section 2903 of this title), who shall be a nonvoting member.

* * * * * * *

(d) The Council shall have the following responsibilities:

(1) * * *

* * * * * * *

¿(3) To prepare an annual five-year strategic environmental research and development plan that shall cover the fiscal year

in which the plan is prepared and the four fiscal years following such fiscal year.

¿(4) *(3)* To promote the maximum exchange of information, and to minimize duplication, regarding environmentally related research, development, and demonstration activities through close coordination with the military departments and Defense Agencies, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, other departments and agencies of the Federal Government or any State and local governments, including the ¿Federal Coordinating Council on Science, Engineering, and Technology *National Science and Technology Council*, and other organizations engaged in such activities.

¿(5) *(4)* To ensure that research and development activities under the Strategic Environmental Research and Development Program do not duplicate other ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, or any other department or agency of the Federal Government.

¿(6) *(5)* To ensure that the research and development programs identified for support pursuant to policies and procedures prescribed by the council utilize, to the maximum extent possible, the talents, skills, and abilities residing at the Federal laboratories, including the Department of Energy multiprogram and defense laboratories, the Department of Defense laboratories, and Federal contract research centers. To utilize the research capabilities of institutions of higher education and private industry to the extent practicable.

(e) In carrying out subsection (d)(1), the Council shall prescribe policies and procedures that—

¿(1) provide for appropriate access by Federal Government personnel, State and local government personnel, college and university personnel, industry personnel, and the general public to data under the control of, or otherwise available to, the Department of Defense that is relevant to environmental matters by—

¿(A) identifying the sources of such data;

¿(B) publicizing the availability and sources of such data by appropriately-targeted dissemination of information to such personnel and the general public, and by other means; and

¿(C) providing for review of classified data relevant to environmental matters with a view to declassifying or preparing unclassified summaries of such data;

¿(2) provide governmental and nongovernmental entities with analytic assistance, consistent with national defense missions, including access to military platforms for sensor deployment and access to computer capabilities, in order to facilitate environmental research;

¿(3) provide for the identification of energy technologies developed for national defense purposes (including electricity gen-

eration systems, energy storage systems, alternative fuels, biomass energy technology, and applied materials technology) that might have environmentally sound, energy efficient applications for other programs of the Department of Defense and the Department of Energy national security programs, particularly technologies that have the potential for industrial, commercial, and other governmental applications, and to support programs of research in and development of such applications;

¿(4) *(1)* provide for the identification and support of programs of basic and applied research, development, and demonstration in technologies useful—

(A) to facilitate environmental compliance, remediation, and restoration activities of the Department of Defense and at Department of Energy defense facilities;

(B) to minimize waste generation, including reduction at the source, by such departments; or

(C) to substitute use of nonhazardous, nontoxic, nonpolluting, and other environmentally sound materials and substances for use of hazardous, toxic, and polluting materials and substances by such departments;

¿(5) *(2)* provide for the identification and support of research, development, and application of other technologies developed for national defense purposes which not only are directly useful for programs, projects, and activities of such departments, but also have useful applications for solutions to ¿such national and international environmental problems as climate change and ozone depletion *national and international environmental problems*;

¿(6) *(3)* provide for the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, in cooperation with other Federal and State agencies, as appropriate, to conduct joint research, development, and demonstration projects relating to innovative technologies, management practices, and other approaches for purposes of—

(A) preventing pollution from all sources;

(B) minimizing hazardous and solid waste, including recycling; and

(C) treating hazardous and solid waste, including the use of thermal, chemical, and biological treatment technologies;

¿(7) *(4)* encourage transfer of technologies referred to in ¿clauses (2) through (6) *paragraphs (1) through (3)* to the private sector under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) and other applicable laws;

¿(8) *(5)* provide for the identification of, and planning for the demonstration and use of, existing environmentally sound, energy-efficient technologies developed by the private sector that could be used directly by the Department of Defense;

¿(9) *(6)* provide for the identification of military specifications that prevent or limit the use of environmentally beneficial technologies, materials, and substances in the performance of Department of Defense contracts and recommend changes to such specifications; and

¿(10) *(7)* to ensure that the research and development programs identified for support pursuant to the policies and procedures prescribed by the Council are closely coordinated with, and do not duplicate, ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, or other Federal agencies.

¿(f)(1) To assist the Council in preparing the five-year strategic environmental research and development plan under subsection (d)(3), the Secretary of Defense and the Secretary of Energy may each submit to the Council a proposal for conducting environmental research under this chapter. The Secretary of each department shall ensure that the environmental research proposal of the department includes—

¿(A) short- and long-term, cooperative, basic, and applied research systems engineering and development programs in environmental research;

¿(B) short- and long-term, basic research in environmental restoration at the respective laboratories of each department; and

¿(C) participation by industry and institutions of higher education.

¿(2) The Secretary of each department shall ensure that, in the development of its environmental research proposal, consideration is given to—

¿(A) the need for increased research in basic science, including basic materials, physics, molecular structures, chemistry, and biology related to environmental research at that department's defense operations, production, research, and maintenance facilities; and

¿(B) ways to identify and conduct research and development on technologies for environmental restoration, remediation and waste cleanup activities, waste minimization, and hazardous and toxic materials substitution potential in defense production and maintenance activities.

¿(3) The Secretary of each department shall transmit the proposal to the Council not later than July 1 of each year.

¿(g) *(f)* The Council shall be subject to the authority, direction, and control of the Secretary of Defense in prescribing policies and procedures under subsection (d)(1).

¿(h)(1) Not later than February 1 of each year, the Council shall submit to the Secretary of Defense an annual report on the annual five-year strategic environmental research and development plan prepared pursuant to subsection (d)(3).

¿(2) The report shall contain the following:

¿(A) A description of the actions to be taken during the five-year period covered by the plan in order to prevent duplication of research and development activities referred to in the policies and procedures prescribed pursuant to subsection (d)(1).

¿(B) A description of the involvement with Federal interagency coordinating entities such as the Federal Coordinating Council on Science, Engineering, and Technology.

¿(C) A description of each project selected or recommended by the Council for support and funding, including the duration of, and the total estimated or (if known) actual cost of—

¿(i) each such project supported during the fiscal year in which the plan is submitted and the preceding fiscal year; and

¿(ii) each such project proposed for funding during the fiscal year in which the annual report is submitted and the following four fiscal years.

¿(D) The amounts requested, in the budget submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year following the fiscal year in which the annual report is submitted, for the programs, projects, and activities of the Strategic Environmental Research and Development Program and the estimated expenditures under such programs, projects, and activities during such following fiscal year.

¿(E) The amount requested in such budget for each Federal laboratory, including each Department of Defense and Department of Energy laboratory.

¿(F) The amount made available, for the fiscal year in which the annual report is submitted, to each Federal laboratory, including each Department of Defense and Department of Energy laboratory.

¿(G) A description of any changes in military specifications recommended by the Council, actions to be taken to effectuate any such recommended changes on an expedited basis, and the projected date for each such change.

¿(H) A description of all contracts, agreements, or other documents for cooperative research and development activities entered into pursuant to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) during the fiscal year preceding the fiscal year in which the annual report is submitted.

¿(I) Plans for transferring technology and information to other governmental agencies and to nongovernmental organizations involved in environmental research and related matters.

¿(J) A description of plans to increase access to data described in subsection (e)(1).

¿(K) Such additional recommendations or proposals, including proposals for legislation, relating to the Strategic Environmental Research and Development Program as the Council considers appropriate.

¿(3) The Council shall make a draft of the five-year strategic environmental research and development plan covered by each report available for public comment for a period of at least 30 days.

¿(4) Not later than March 15 of each year the Secretary of Defense and the Secretary of Energy shall transmit the annual report to the Congress. The Secretary of Defense and the Secretary of Energy may submit such comments on the annual report as each Secretary considers appropriate.

§ 2903. Executive Director

(a) * * *

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(c) The Executive Director may enter into contracts ¿or *using competitive procedures. The Executive Director may enter into* other agreements in accordance with applicable ¿law, except that *law. In either case,* the Executive Director shall first obtain the approval of the Council for any contract or agreement in an amount equal to or in excess of $500,000 or such lesser amount as the Council may prescribe.

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§ 2904. Strategic Environmental Research and Development Program Scientific Advisory Board

(a) The Secretary of Defense ¿and the Secretary of Energy , in consultation with *the Secretary of Energy and* the Administrator of the Environmental Protection Agency, shall jointly appoint a Strategic Environmental Research and Development Program Scientific Advisory Board (hereafter in this section referred to as the "Advisory Board") consisting of not less than six and not more than 14 members.

(b)(1) * * *

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¿(3) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall request—

¿(A) that the head of the National Academy of Sciences, in consultation with the head of the National Academy of Engineering and the head of the Institutes of Medicine of the National Academy of Sciences, nominate persons for appointment to the Advisory Board;

¿(B) that the Council on Environmental Quality nominate for appointment to the Advisory Board at least one person who is a representative of environmental public interest groups; and

¿(C) that the National Association of Governors nominate for appointment to the Advisory Board at least one person who is representative of the interests of State governments.

¿(4) *(3)* Members of the Advisory Board shall be appointed for terms of ¿three *not less than two years and not more than six* years.

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¿(g) The Advisory Board shall assist and advise the Council in identifying the environmental data and analytical assistance activities that should be covered by the policies and procedures prescribed pursuant to section 2902(d)(1) of this title.

¿(h) Not later than March 15 of each year, the Advisory Board shall submit to the Congress an annual report setting forth its actions during the year preceding the year in which the report is submitted and any recommendations, including recommendations on projects, programs, and information exchange and recommendations for legislation, that the Advisory Board considers appropriate

regarding the Strategic Environmental Research and Development Program.

¿(i) *(g)* Each member of the Advisory Board shall be required to file a financial disclosure report under title I of the Ethics in Government Act of 1978 (5 U.S.C. App.).

Subtitle B—Army

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PART II—PERSONNEL

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CHAPTER 331—STRENGTH

Sec.
3201. Officers on active duty: minimum strength based on requirements.

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§ 3201. Officers on active duty: minimum strength based on requirements

(a) The Secretary of the Army shall ensure that (beginning with fiscal year 1999) the strength at the end of each fiscal year of officers on active duty is sufficient to enable the Army to meet at least 90 percent of the programmed manpower structure for the active component of the Army.

(b) The number of officers on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

(c) In this section:

(1) The term "programmed manpower structure" means the aggregation of billets describing the full manpower requirements for units and organizations in the programmed force structure.

(2) The term "programmed force structure" means the set of units and organizations that exist in the current year and that is planned to exist in each future year under the then-current Future-Years Defense Program.

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CHAPTER 337—APPOINTMENTS AS RESERVE OFFICERS

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§ 3359. Commissioned officers: original appointment; determination of grade

(a) * * *

(b) In the case of a person who is originally appointed as a reserve officer in the Medical Corps of the Army during the period beginning on October 1, 1983, and ending on September 30, ¿1995 *1996*, and who is credited with service under section 3353 of this title, the commissioned grade in which that person is appointed

(based on the service credited under that section) shall be determined as follows:

(1) * * *

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§ 3380. Commissioned officers: promotion of reserve commissioned officers on active duty and not on the active duty list

(a) * * *

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(d) The authority to promote officers under this section shall expire on September 30, ¿1995 *1996*.

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CHAPTER 367—RETIREMENT FOR LENGTH OF SERVICE

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§ 3925. Computation of years of service: voluntary retirement; enlisted members

(a) * * *

(b) Time required to be made up under section 972*(a)* of this title may not be counted in determining years of service under subsection (a).

§ 3926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) * * *

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(e) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

PART III—TRAINING

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CHAPTER 401—TRAINING GENERALLY

Sec.

4301. Members of Army: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.

4302. Enlisted members of Army: schools.

4303. Army Ranger Training: instructor staffing; safety.

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¿4307. Director of civilian marksmanship: detail.

¿4308. Promotion of civilian marksmanship: authority of the Secretary of the Army.

4307. Promotion of rifle practice and firearms safety: administration.

4308. Promotion of rifle practice and firearms safety: activities.

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¿4310. Rifle instruction: detail of members of Army.

4310. Rifle instruction and competitions: participation of members.

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§ 4303. Army Ranger Training: instructor staffing; safety

(a) LEVELS OF PERSONNEL ASSIGNED TO BE NOT LESS THAN NUMBER REQUIRED.—(1) The Secretary of the Army shall ensure that at all times the number of officers, and the number of enlisted members, permanently assigned to the Army Ranger Training Brigade (or other organizational element of the Army primarily responsible for ranger student training) are not less than the required manning spaces for that brigade.

(2) If at any time the number of officers, or the number of enlisted members, permanently assigned to the Ranger Training Brigade is less than the required manning spaces for officers, or for enlisted members, as the case may be, for the Brigade, the Secretary of the Army shall submit to Congress a notice of such shortage, together with a statement of the reasons for the shortage and of the expected date when the number assigned will be not less that the required manning spaces, in accordance with paragraph (1).

(b) REQUIRED MANNING SPACES.—(1) The Secretary of the Army may not (except as provided in paragraph (3)) reduce the required manning spaces for the Ranger Training Brigade below the baseline required manning spaces.

(2) In this section:

(A) The term "required manning spaces" means the number of personnel spaces for officers, and the number of personnel spaces for enlisted members, that are designated in Army authorization documents as the number required to accomplish the missions of a particular unit or organization.

(B) The term "baseline required manning spaces" means the required manning spaces for the Army Ranger Training Brigade as of February 10, 1995, of 94 officers and 658 enlisted members.

(3) The Secretary may (subject to paragraph (4)) make reductions in required manning spaces for the Army Ranger Training Brigade from the baseline required manning spaces if—

(A) reductions in ranger student training loads result in decreased instructor workload; and

(B) one or more of the three major phases of the Ranger Course (conducted at Fort Benning, Georgia, at the Mountain Ranger Camp, and in Florida) is eliminated.

(4) Before making a reduction authorized by paragraph (3) in required manning spaces, the Secretary of the Army shall submit to Congress a report on the proposed reduction. Such a reduction may not be made unless the report includes a certification by the Secretary that the reduction will not reduce the ability of the commander of the Ranger Training Brigade to conduct training safely. The report shall include a description of the reduction (including specification of the number of officers and the number of enlisted members that will be considered to be required to carry out the missions of the Army Ranger Training Brigade after the reduction) and shall set forth the rationale of the Secretary for the reduction.

(c) TRAINING SAFETY CELLS.—(1) The Secretary of the Army shall establish and maintain an organizational entity known as a "safety cell" as part of the organizational elements of the Army responsible for conducting each of the three major phases of the Ranger Course. The safety cell in each different geographic area of Ranger Course

training shall be comprised of personnel who have sufficient continuity and experience in that geographic area of such training to be knowledgeable of the local conditions year-round, including conditions of terrain, weather, water, and climate and other conditions and the potential effect on those conditions on Ranger student training and safety.

(2) Members of each safety cell shall be assigned in sufficient numbers to serve as advisers to the officers in charge of the major phase of Ranger training and shall assist those officers in making informed daily "go" and "no-go" decisions regarding training in light of all relevant conditions, including conditions of terrain, weather, water, and climate and other conditions.

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¿§ 4307. Director of civilian marksmanship: detail

¿The President may detail a commissioned officer of the Army or of the Marine Corps as director of civilian marksmanship, to serve under the direction of the Secretary of the Army.

¿§ 4308. Promotion of civilian marksmanship: authority of the Secretary of the Army

¿(a) PROGRAM REQUIRED.—The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for—

¿(1) the operation and maintenance of indoor and outdoor rifle ranges and their accessories and appliances;

¿(2) the instruction of citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

¿(3) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue, without cost, of the arms, ammunition (including caliber .22 and caliber .30 ammunition), targets, and other supplies and appliances necessary for those purposes, to gun clubs under the direction of the National Board for the Promotion of Rifle Practice that provide training in the use of rifled arms to youth, the Boy Scouts of America, 4–H Clubs, Future Farmers of America, and other youth-oriented organizations for training and competition;

¿(4) the award to competitors of trophies, prizes, badges, and other insignia;

¿(5) the loan or sale at fair market value of caliber .30 rifles, caliber .22 rifles, and air rifles, and the sale of ammunition at fair market value, to gun clubs that—

¿(A) are under the direction of the National Board for the Promotion of Rifle Practice; and

¿(B) provide training in the use of rifled arms;

¿(6) the sale at fair market value of arms (including surplus M–1 Garand rifles), ammunition, targets, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club under the direction of the National Board for the Promotion of Rifle Practice;

¿(7) the maintenance of the National Board for the Promotion of Rifle Practice, including provision for its necessary expenses and those of its members and for the Board's expenses incidental to the conduct of the Board's annual meetings;

¿(8) the procurement of necessary supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor; and

¿(9) the transportation of employees, instructors, and civilians to give or to receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the Secretary to participate in matches or competitions in the use of rifled arms.

¿(b) ADDITIONAL AUTHORITY.—The Secretary may—

¿(1) provide personnel services (in addition to pay and non-travel-related allowances for members of the armed forces) in carrying out the Civilian Marksmanship Program; and

¿(2) impose reasonable fees for persons and gun clubs participating in any program conducted by the Secretary for the promotion of marksmanship among civilians.

¿(c) AMOUNTS COLLECTED.—Amounts collected by the Secretary under the Civilian Marksmanship Program, including the proceeds from the sale of arms, ammunition, targets, and other supplies and appliances under subsection (a), shall be credited to the appropriation available for the support of the Civilian Marksmanship Program and shall be available to carry out such program. Notwithstanding any other provision of law, such amounts shall remain available until expended.

¿(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each fiscal year such sums as may be necessary to pay the personnel costs and other expenses of the Civilian Marksmanship Program in such fiscal year to the extent that the amounts available out of the revenues collected under the program are insufficient to defray such costs and expenses.

¿(e) DEFINITION.—In this section, the term "Civilian Marksmanship Program" means the program carried out by the Secretary of the Army under this section and sections 4310 through 4312 of this title and includes the National Matches and small-arms firing schools referred to in section 4312 of this title.

§ 4307. Promotion of rifle practice and firearms safety: administration

(a) NONAPPROPRIATED FUND INSTRUMENTALITY.—On and after October 1, 1995, the Civilian Marksmanship Program shall be operated as a nonappropriated fund instrumentality of the United States within the Department of Defense for the benefit of members of the armed forces and for the promotion of rifle practice and firearms safety among civilians.

(b) NATIONAL BOARD.—(1) The Civilian Marksmanship Program shall be under the general supervision of a National Board for the Promotion of Rifle Practice and Firearms Safety, which shall replace the National Board for the Promotion of Rifle Practice. The

National Board shall consist of nine members who are appointed by the Secretary of the Army.

(2) The term of office of a member of the National Board shall be two years. However, in the case of the initial National Board, the Secretary shall appoint four members who will have a one-year term.

(3) Members of the National Board shall serve without compensation, except that members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the National Board.

(c) DIRECTOR AND STAFF.—The National Board shall appoint a person to serve as director of the Civilian Marksmanship Program. The compensation and benefits of the director and all other civilian employees of the Department of Defense used by the Civilian Marksmanship Program shall be paid from nonappropriated funds available to the Civilian Marksmanship Program.

(d) FUNDING.—(1) Except as provided in section 4310 of this title, funds appropriated or otherwise made available to the Department of Defense in appropriation Acts may not be obligated or expended to benefit the Civilian Marksmanship Program or activities conducted by the Civilian Marksmanship Program.

(2) The National Board and the director may solicit, accept, hold, use, and dispose of, in furtherance of the activities of the Civilian Marksmanship Program, donations of money, property, and services received by gift, devise, bequest, or otherwise. Donations may be accepted from munitions and firearms manufacturers notwithstanding any legal restrictions otherwise arising from their procurement relationships with the United States.

(3) Amounts collected under the Civilian Marksmanship Program, including the proceeds from the sale of arms, ammunition, targets, and other supplies and appliances under section 4308 of this title, shall be credited to the Civilian Marksmanship Program and shall be available to carry out the Civilian Marksmanship Program. Amounts collected by, and available to, the National Board for the Promotion of Rifle Practice before the date of the enactment of this section from rifle sales programs and from fees in connection with competitions sponsored by that Board shall be transferred to the National Board to be available to carry out the Civilian Marksmanship Program.

(4) Funds held on behalf of the Civilian Marksmanship Program shall not be construed to be Government or public funds or appropriated funds and shall not be available to support other nonappropriated fund instrumentalities of the Department of Defense. Funds held on behalf of other nonappropriated fund instrumentalities of the Department of Defense shall not be available to support the Civilian Marksmanship Program. Expenditures on behalf of the Civilian Marksmanship Program, including compensation and benefits for civilian employees, may not exceed $5,000,000 during any fiscal year. The approval of the National Board shall be required for any expenditure in excess of $50,000. Notwithstanding any other provision of law, funds held on behalf of the Civilian Marksmanship Program shall remain available until expended.

(e) DEFINITIONS.—In this section and sections 4308 through 4313 of this title:

(1) The term "Civilian Marksmanship Program" means the rifle practice and firearms safety program carried out by the National Board under section 4308 and includes the National Matches and small-arms firing schools referred to in section 4312 of this title.

(2) The term "National Board" means the National Board for the Promotion of Rifle Practice and Firearms Safety.

§ 4308. Promotion of rifle practice and firearms safety: activities

(a) INSTRUCTION, SAFETY, AND COMPETITION PROGRAMS.—(1) The Civilian Marksmanship Program shall provide for—

(A) the operation and maintenance of indoor and outdoor rifle ranges and their accessories and appliances;

(B) the instruction of citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

(C) the promotion of practice in the use of rifled arms and the maintenance and management of matches or competitions in the use of those arms; and

(D) the award to competitors of trophies, prizes, badges, and other insignia.

(2) In carrying out this subsection, the Civilian Marksmanship Program shall give priority to activities that benefit firearms safety training and competition for youth and reach as many youth participants as possible.

(3) Before a person may participate in any activity sponsored or supported by the Civilian Marksmanship Program under this subsection, the person shall be required to certify that the person has not violated any Federal or State firearms laws.

(b) SALE AND ISSUANCE OF ARMS AND AMMUNITION.—(1) The Civilian Marksmanship Program may issue, without cost, the arms, ammunition (including caliber .22 and caliber .30 ammunition), targets, and other supplies and appliances necessary for activities conducted under subsection (a). Issuance shall be made only to gun clubs under the direction of the National Board that provide training in the use of rifled arms to youth, the Boy Scouts of America, 4–H Clubs, Future Farmers of America, and other youth-oriented organizations for training and competition.

(2) The Civilian Marksmanship Program may sell at fair market value caliber .30 rifles, caliber .22 rifles, and air rifles, and ammunition for such rifles, to gun clubs that are under the direction of the National Board and provide training in the use of rifled arms. In lieu of sales, the Civilian Marksmanship Program may loan such rifles to such gun clubs.

(3) The Civilian Marksmanship Program may sell at fair market value small arms, ammunition, targets, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club under the direction of the National Board.

(4) Before conveying any weapon or ammunition to a person, whether by sale or lease, the National Board shall provide for a

criminal records check of the person with appropriate Federal and State law enforcement agencies.

(c) OTHER AUTHORITIES.—The National Board shall provide for—

(1) the procurement of necessary supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor to carry out the Civilian Marksmanship Program; and

(2) the transportation of employees, instructors, and civilians to give or to receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the National Board to participate in matches or competitions in the use of rifled arms.

(d) FEES.—The National Board may impose reasonable fees for persons and gun clubs participating in any program or competition conducted under the Civilian Marksmanship Program for the promotion of rifle practice and firearms safety among civilians.

(e) RECEIPT OF EXCESS ARMS AND AMMUNITION.—(1) The Secretary of the Army shall reserve for the Civilian Marksmanship Program all remaining M–1 Garand rifles, and ammunition for such rifles, still held by the Army. After the date of the enactment of this section, the Secretary of the Army shall cease demilitarization of remaining M–1 Garand rifles in the Army inventory unless such rifles are determined to be irreparable by the Defense Logistics Agency.

(2) Transfers under this subsection shall be made without cost to the Civilian Marksmanship Program, except that the National Board shall assume the costs of transportation for the transferred small arms and ammunition.

(f) PARTICIPATION CONDITIONS.—(1) All participants in the Civilian Marksmanship Program and activities sponsored or supported by the National Board shall be required, as a condition of participation, to sign affidavits stating that—

(A) they have never been convicted of a firearms violation under State or Federal law; and

(B) they are not members of any organization which advocates the violent overthrow of the United States Government.

(2) Any person found to have violated this subsection shall be ineligible to participate in the Civilian Marksmanship Program and future activities sponsored or supported by the National Board.

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¿§ 4310. Rifle instruction: detail of members of Army

¿(a) The President may detail regular or reserve officers and noncommissioned officers of the Army to duty as instructors at rifle ranges for training civilians in the use of military arms.

¿(b) The Secretary of the Army may detail enlisted members of the Army as temporary instructors in the use of the rifle to organized rifle clubs requesting that instruction.

§ 4310. Rifle instruction and competitions: participation of members

(a) PARTICIPATION AUTHORIZED.—The commander of a major command of the armed forces may detail regular or reserve officers

and noncommissioned officers under the authority of the commander to duty as instructors at rifle ranges for training civilians in the safe use of military arms. The commander of a major command may detail enlisted members under the authority of the commander as temporary instructors in the safe use of the rifle to organized rifle clubs requesting that instruction. The commander of a major command may detail members under the authority of the commander to provide other logistical and administrative support for competitions and other activities conducted by the Civilian Marksmanship Program. Members of a reserve component may be detailed only if the service to be provided meets a legitimate training need of the members involved.

(b) COSTS OF PARTICIPATION.—The commander of a major command of the armed forces may pay the personnel costs and travel and per diem expenses of members of an active or reserve component of the armed forces who participate in a competition sponsored by the Civilian Marksmanship Program or who provide instruction or other services in support of the Civilian Marksmanship Program.

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§ 4312. National rifle and pistol matches: small-arms firing school

(a) An annual competition called the "National Matches" and consisting of rifle and pistol matches for a national trophy, medals, and other prizes shall be held ¿as prescribed by the Secretary of the Army *as part of the Civilian Marksmanship Program.*

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§ 4313. National Matches and small-arms school: expenses

(a) JUNIOR COMPETITORS.—(1) Junior competitors at National Matches, small-arms firing schools, and competitions in connection with National Matches and special clinics under section 4312 of this title may be paid a subsistence allowance in such amount as the ¿Secretary of the Army *National Board* shall prescribe.

(2) A junior competitor referred to in paragraph (1) may be paid a travel allowance, in such amount as the ¿Secretary of the Army *National Board* shall prescribe, instead of travel expenses and subsistence while traveling. The travel allowance for the return trip may be paid in advance.

(3) For the purposes of this subsection, a junior competitor is a competitor who is under 18 years of age or is a member of a gun club organized for the students of a college or university.

(b) RESERVE COMPONENT PERSONNEL.—¿Appropriated funds available for the Civilian Marksmanship Program (as defined in section 4308(e) of this title) may *Nonappropriated funds available to the Civilian Marksmanship Program shall* be used to pay the personnel costs and travel and per diem expenses of a member of a reserve component for any active duty performed by the member in a fiscal year in support of the program after the end of that member's scheduled period of annual training for that fiscal year.

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CHAPTER 403—UNITED STATES MILITARY ACADEMY

Sec.
4331. Establishment; Superintendent; faculty.

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¿4357. Athletics program: athletic director; nonappropriated fund account.

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§ 4342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of the Corps of Cadets of the Academy is as follows:

(1) Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 10 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter.

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(10) One cadet from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.

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§ 4355. Board of Visitors

(a) * * *

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(h) While performing his duties, each member of the Board and each adviser ¿is entitled to not more than $5 a day and shall be reimbursed under Government travel regulations for his travel expenses.

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¿§ 4357. Athletics program: athletic director; nonappropriated fund account

¿(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

¿(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Academy and all contributions received for that program.

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 439—SALE OF SERVICEABLE MATERIAL

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§ 4621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) * * *

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(f) Whenever, under regulations to be prescribed by the Secretary, subsistence supplies are furnished to any branch of the Army or sold to employees of any executive department other than the Department of Defense, payment shall be made in cash *or by commercial credit*.

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Subtitle C—Navy and Marine Corps

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PART I—ORGANIZATION

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CHAPTER 506—HEADQUARTERS, MARINE CORPS

Sec.
5041. Headquarters, Marine Corps: function; composition.

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¿5044. Assistant Commandant of the Marine Corps.
¿5045. Chief of Staff; Deputy and Assistant Chiefs of Staff.
5044. Vice Commandant of the Marine Corps.
5045. Director of the Marine Corps Staff; Deputy and Assistant Commandants.

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§ 5041. Headquarters, Marine Corps: function; composition

(a) * * *

(b) The Headquarters, Marine Corps, is composed of the following:

(1) The Commandant of the Marine Corps.
¿(2) The Assistant Commandant of the Marine Corps.
¿(3) The Chief of Staff of the Marine Corps.
¿(4) The Deputy Chiefs of Staff.
¿(5) The Assistant Chiefs of Staff.
(2) The Vice Commandant of the Marine Corps.
(3) The Director of the Marine Corps Staff.
(4) The Deputy Commandants of the Marine Corps.
(5) The Assistant Commandants of the Marine Corps.

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¿§ 5044. Assistant Commandant of the Marine Corps

§ 5044. Vice Commandant of the Marine Corps

(a) There is an ¿Assistant Commandant *Vice Commandant* of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.

(b) The ¿Assistant Commandant *Vice Commandant* of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

(c) The ¿Assistant Commandant *Vice Commandant* has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the ¿Assistant Commandant *Vice Commandant* in performing such duties have the same effect as those issued by the Commandant.

(d) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant—

(1) the ¿Assistant Commandant *Vice Commandant* of the Marine Corps shall perform the duties of the Commandant until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the ¿Assistant Commandant *Vice Commandant* of the Marine Corps or the ¿Assistant Commandant *Vice Commandant* is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the ¿Assistant Commandant *Vice Commandant* is appointed or until the absence or disability of the Commandant or ¿Assistant Commandant *Vice Commandant* ceases, whichever occurs first.

¿§ 5045. Chief of Staff; Deputy and Assistant Chiefs of Staff

¿There are in the Headquarters, Marine Corps, a Chief of Staff, not more than five Deputy Chiefs of Staff, and not more than three Assistant Chiefs of Staff, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.

§ 5045. Director of the Marine Corps Staff; Deputy and Assistant Commandants

(a) There are in the Headquarters, Marine Corps, the following:

(1) A Director of the Marine Corps Staff.

(2) Not more than five Deputy Commandants of the Marine Corps.

(3) Not more than three Assistant Commandants of the Marine Corps.

(b) The officers specified in subsection (a) shall be detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.

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PART II—PERSONNEL

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CHAPTER 544—TEMPORARY APPOINTMENTS

Sec.
5721. Temporary promotions of certain Navy lieutenants.

§ 5721. Temporary promotions of certain Navy lieutenants

(a) * * *

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(f) The authority to make appointments under this section terminates on September 30, ¿1995 *1998.*

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CHAPTER 571—VOLUNTARY RETIREMENT

Sec.
6321. Officers: 40 years.

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6328. Computation of years of service: voluntary retirement.

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§ 6328. Computation of years of service: voluntary retirement

(a) ENLISTED MEMBERS.—Time required to be made up under section 972(a) of this title after the date of the enactment of this section may not be counted in computing years of service under this chapter.

(b) OFFICERS.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter any time identified with respect to that officer under that section.

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PART III—EDUCATION AND TRAINING

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CHAPTER 603—UNITED STATES NAVAL ACADEMY

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§ 6954. Midshipmen: number

(a) There may be at the Naval Academy at any one time midshipmen as follows:

(1) Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 10 persons for each vacancy that is available under this section. Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates

for the purposes of selection under other provisions of this chapter.

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(10) One from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.

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§ 6968. Board of Visitors

(a) * * *

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(h) While performing his duties, each member of the Board and each adviser ¿is entitled to not more than $5 a day and shall be reimbursed under Government travel regulations for his travel expenses.

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PART IV—GENERAL ADMINISTRATION

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CHAPTER 633—NAVAL VESSELS

Sec.
7291. Classification.
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7315. Phased maintenance contracts: vessels covered.

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§ 7310. Overhaul, repair, etc. of vessels in foreign shipyards: restrictions

(a) VESSELS WITH HOMEPORT IN UNITED STATES.—A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States *or Guam*, other than in the case of voyage repairs.

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§ 7315. Phased maintenance contracts: vessels covered

In any case in which the Secretary of the Navy enters into a contract for the phased maintenance of a class of vessels or vessels of an identified type, the Secretary shall ensure that—

(1) any vessel that is covered by the contract when it is entered into remains covered by the contract, regardless of operating command to which the vessel is subsequently assigned, unless the vessel is taken out of service for the Department of the Navy; and

(2) any vessel of a class or type covered by the contract that is delivered to the Navy while the contract is in effect is covered by the contract.

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CHAPTER 641—NAVAL PETROLEUM RESERVES

Sec.
7420. Definitions.
7421. Jurisdiction and control.
7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).

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§ 7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills)

(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter, the Secretary shall sell all right, title, and interest of the United States in and to lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1, commonly referred to as the Elk Hills Unit, located in Kern County, California, and established by Executive order of the President, dated September 2, 1912. Within one year after the effective date, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the reserve.

(2) In this section:

(A) The term "reserve" means Naval Petroleum Reserve Numbered 1.

(B) The term "unit plan contract" means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 entered into on June 19, 1944.

(C) The term "effective date" means the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.

(b) EQUITY FINALIZATION.—(1) Not later than five months after the effective date, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

(3) If, on the effective date, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, such dispute shall be resolved in the manner provided in the unit plan contract within five months after the effective date. Such resolution shall be considered final for all purposes under this section.

(c) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than two months after the effective date, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the fair market value of the interest of the United States in Naval Petroleum Reserve Numbered 1. In making their assessments, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale,

the net present value of the reserve, and the net present value of the anticipated revenue stream that the Secretary determines the Treasury would receive from the reserve if the reserve were not sold, adjusted for any anticipated increases in tax revenues that would result if the reserve were sold. The independent experts shall complete their assessments within five months after the effective date. In setting the minimum acceptable price for the reserve, the Secretary shall consider the average of the five assessments or, if more advantageous to the Government, the average of three assessments after excluding the high and low assessments.

(2) Not later than two months after the effective date, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of Naval Petroleum Reserve Numbered 1 under this section.

(3) Not later than five months after the effective date, the sales administrator selected under paragraph (2) shall complete a draft contract for the sale of Naval Petroleum Reserve Numbered 1, which shall accompany the invitation for bids and describe the terms and provisions of the sale of the interest of the United States in the reserve. The draft contract shall identify all equipment and facilities to be included in the sale. The draft contract, including the terms and provisions of the sale of the interest of the United States in the reserve, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(4) Not later than six months after the effective date, the Secretary shall publish an invitation for bids for the purchase of the reserve.

(5) Not later than nine months after the effective date, the Secretary shall accept the highest responsible offer for purchase of the interest of the United States in Naval Petroleum Reserve Numbered 1 that meets or exceeds the minimum acceptable price determined under paragraph (1).

(d) FUTURE LIABILITIES.—The United States shall hold harmless and fully indemnify the purchaser of the interest of the United States in Naval Petroleum Reserve Numbered 1 from and against any claim or liability as a result of ownership in the reserve by the United States.

(e) TREATMENT OF STATE OF CALIFORNIA CLAIM.—After deducting the costs incurred to conduct the sale of Naval Petroleum Reserve Numbered 1 under this section, seven percent of the remaining proceeds from the sale of the reserve shall be paid to the State of California, subject to the conditions that—

(1) the State credit the payment to the Supplemental Benefits Maintenance Account within the Teachers' Retirement Fund; and

(2) all claims against the United States by the State and the Teachers' Retirement Fund are released with respect to production and proceeds of sale from the reserve.

(f) PRODUCTION ALLOCATION FOR SALE.—(1) As part of the contract for purchase of Naval Petroleum Reserve Numbered 1, the purchaser of the interest of the United States in the reserve shall agree to make up to 25 percent of the purchaser's share of annual petroleum production from the purchased lands available for sale to

small refiners, which do not have their own adequate sources of supply of petroleum, for processing or use only in their own refineries. None of the reserved production sold to small refiners may be resold in kind. The purchaser of the reserve may reduce the quantity of petroleum reserved under this subsection in the event of an insufficient number of qualified bids. The seller of this petroleum production has the right to refuse bids that are less than the prevailing market price of comparable oil.

(2) The purchaser of the reserve shall also agree to ensure that the terms of every sale of the purchaser's share of annual petroleum production from the purchased lands shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike.

(g) MAINTAINING ELK HILLS UNIT PRODUCTION.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce the reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract. The definition of maximum efficient rate in section 7420(6) of this title shall not apply to the reserve.

(h) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date, for the purchase of production from any part of the United States' share of Naval Petroleum Reserve Numbered 1, the sale of the interest of the United States in the reserve shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

(2) The Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of Naval Petroleum Reserve Numbered 1 under subsection (c).

(3) The Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of reserve under subsection (c).

(i) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser of Naval Petroleum Reserve Numbered 1 or to the lands in the reserve subject to sale under this section upon the completion of the sale.

(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of Naval Petroleum Reserve Numbered 1 and which are subject to the unit plan contract.

(k) CONGRESSIONAL NOTIFICATION.—Section 7431 of this title shall not apply to the sale of Naval Petroleum Reserve Numbered 1 under this section. However, the Secretary may not enter into a

contract for the sale of the reserve until the end of the 31-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives of the proposed sale.

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CHAPTER 647—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

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§ 7545. Obsolete material and articles of historical interest: loan or gift

(a) * * *

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¿(c) No loan or gift under this section may be made unless—

¿(1) notice of the proposal to make the loan or gift is sent to Congress;

¿(2) 30 calendar days of continuous session of Congress have expired after the notice was sent to Congress; and

¿(3) during that 30-day period Congress does not pass a concurrent resolution stating in substance that it does not favor the proposed loan or gift.

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CHAPTER 651—SHIPS' STORES AND COMMISSARY STORES

Sec.

7601. Sales: members of naval service and Coast Guard; widows and widowers; civilian employees and other persons.

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7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.

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§ 7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) The branch, office, or officer designated by the Secretary of the Navy shall procure and sell, for cash or credit—

(1) articles specified by the Secretary of the Navy or a person designated by the Secretary, to members of the Navy and Marine Corps; and

(2) items of individual clothing and equipment to members of the Navy and Marine Corps, under such restrictions as the Secretary may prescribe.

An account of sales on credit shall be kept and the amount due reported to any branch office, or officer designated by the Secretary. Except for articles and items acquired through the use of working capital funds under section 2208 of this title, sales of articles shall be at cost, and sales of individual clothing and equipment shall be

at average current prices, including overhead, as determined by the Secretary.

(b) The branch, office, or officer designated by the Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Navy and Marine Corps.

(c) The branch, office, or officer designated by the Secretary may sell serviceable supplies, other than subsistence supplies, to members of other armed forces at the prices at which like property is sold to members of the Navy and Marine Corps.

(d) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force, or Marine Corps and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to members of the Navy and Marine Corps.

(e) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged from the Navy or Marine Corps honorably or under honorable conditions at the prices at which like articles are sold to members of the Navy or Marine Corps. This subsection does not modify section 772 or 773 of this title.

(f) Under regulations prescribed by the Secretary, payment for subsistence supplies shall be made in cash or by commercial credit.

(g) The Secretary may provide for the procurement and sale of stores designated by him to such civilian officers and employees of the United States, and such other persons, as he considers proper—

(1) at military installations outside the United States (provided such sales conform with host nation support agreements); and

(2) at military installations inside the United States where the Secretary determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from commercial enterprises without impairing the efficient operation of military activities.

However, sales to such civilian officers and employees inside the United States may be only to those who reside within military installations.

(h) Appropriations for subsistence of the Navy or Marine Corps may be applied to the purchase of subsistence supplies for sale to members of the Navy and Marine Corps on active duty for the use of themselves and their families.

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CHAPTER 661—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
7861. Custody of departmental records and property.

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¿7863. Disbursements by order of commanding officer.
7863. Disposal of public stores by order of commanding officer.

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¿§ 7863. Disbursements by order of commanding officer

§ 7863. Disposal of public stores by order of commanding officer

When settling an account of a disbursing official, the Comptroller General shall allow ¿disbursements of public moneys or disposal of public stores the disbursing official made under an order of a commanding officer when presented with satisfactory evidence that the order was made and that ¿the money was paid or the stores disposed of as the order provided. The commanding officer is accountable for the ¿disbursement or disposal.

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Subtitle D—Air Force

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PART II—PERSONNEL

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CHAPTER 837—APPOINTMENTS AS RESERVE OFFICERS

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§ 8359. Commissioned officers: original appointment; determination of grade

(a) * * *

(b) In the case of a person who is originally appointed as a reserve officer of the Air Force with a designation as a medical officer during the period beginning on October 1, 1983, and ending on September 30, ¿1995 *1996*, and who is credited with service under section 8353 of this title, the commissioned grade in which that person is appointed (based on the service credited under that section) shall be determined as follows:

(1) * * *

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§ 8380. Commissioned officers: promotion of reserve commissioned officers on active duty and not on the active duty list

(a) * * *

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(d) The authority to promote officers under this section shall expire on September 30, ¿1995 *1996*.

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CHAPTER 867—RETIREMENT FOR LENGTH OF SERVICE

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§ 8925. Computation of years of service: voluntary retirement; enlisted members

(a) * * *

(b) Time required to be made up under section 972*(a)* of this title may not be counted in computing years of service under subsection (a).

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§ 8926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) * * *

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(d) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

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PART III—TRAINING

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CHAPTER 903—UNITED STATES AIR FORCE ACADEMY

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§ 9342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of Air Force Cadets of the Academy is as follows:

(1) Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 10 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter.

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(10) One cadet from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.

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§ 9355. Board of Visitors

(a) * * *

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(h) While performing his duties, each member of the Board and each adviser ¿is entitled to not more than $5 a day and shall be

reimbursed under Government travel regulations for his travel expenses.

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 931—CIVIL RESERVE AIR FLEET

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§ 9512. Contracts for the inclusion or incorporation of defense features

(a) * * *

(b) COMMITMENT TO CIVIL RESERVE AIR FLEET.—Each contract entered into under this section shall provide—

(1) that any aircraft covered by the contract shall be committed to the Civil Reserve Air Fleet;

(2) that, so long as the aircraft is owned or controlled by a contractor, the contractor shall operate the aircraft for the Department of Defense as needed during any activation of the ¿full Civil Reserve Air Fleet, notwithstanding any other contract or commitment of that contractor; and

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(e) EXCLUSIVITY OF COMMITMENT TO CIVIL RESERVE AIR FLEET.—Notwithstanding section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), each aircraft covered by a contract entered into under this section shall be committed exclusively to the Civil Reserve Air Fleet for use by the Department of Defense as needed during any activation of the ¿full Civil Reserve Air Fleet unless the aircraft is released from that use by the Secretary of Defense.

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CHAPTER 939—SALE OF SERVICEABLE MATERIAL

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§ 9621. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) * * *

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(f) Whenever, under regulations to be prescribed by the Secretary, subsistence supplies are furnished to any organization of the Air Force or sold to employees of any executive department other than the Department of Defense, payment shall be made in cash *or by commercial credit*.

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Subtitle E—Reserve Components

PART I—ORGANIZATION AND ADMINISTRATION

Chap. Sec.
1001. Definitions 10001
* * * * * * *

PART II—PERSONNEL GENERALLY

1201. Authorized Strengths and Distribution in Grade 12001
1203. Enlisted Members 12101
* * * * * * *
1214. Ready Reserve Income Insurance 12521
* * * * * * *

PART I—ORGANIZATION AND ADMINISTRATION

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CHAPTER 1007—ADMINISTRATION OF RESERVE COMPONENTS

Sec.
10201. Assistant Secretary of Defense for Reserve Affairs.
* * * * * * *
10216. Military technicians.
* * * * * * *

§ 10201. Assistant Secretary of Defense for Reserve Affairs

¿As provided in section 138(b)(2) of this title, the official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the Assistant Secretary of Defense for Reserve Affairs.

The official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the official designated by the Secretary of Defense to have that responsibility.

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§ 10216. Military technicians

(a) PRIORITY FOR MANAGEMENT OF MILITARY TECHNICIANS.—(1) As a basis for making the annual request to Congress pursuant to section 115 of this title for authorization of end strengths for military technicians of the Army and Air Force reserve components, the Secretary of Defense shall give priority to supporting authorizations for dual status military technicians in the following high-priority units and organizations:

(A) Units of the Selected Reserve that are scheduled to deploy no later than 90 days after mobilization.

(B) Units of the Selected Reserve that are or will deploy to relieve active duty peacetime operations tempo.

(C) Those organizations with the primary mission of providing direct support surface and aviation maintenance for the

reserve components of the Army and Air Force, to the extent that the military technicians in such units would mobilize and deploy in a skill that is compatible with their civilian position skill.

(2) For each fiscal year, the Secretary of Defense shall, for the high-priority units and organizations referred to in paragraph (1), achieve a programmed manning level for military technicians that is not less than 90 percent of the programmed manpower structure for those units and organizations for military technicians for that fiscal year.

(3) For each fiscal year, the Secretary of Defense shall, for reserve component management headquarters organizations (including national and State-level National Guard headquarters, in United States Property and Fiscal Offices, and in similar management-level headquarters in the Army and Air Force Reserve), achieve a programmed manning level for military technicians that is not more than 70 percent of the programmed manpower structure for those organizations for military technicians for that fiscal year.

(4) Military technician authorizations and personnel in high-priority units and organizations specified in paragraph (1) shall be exempt from any requirement (imposed by law or otherwise) for reductions in Department of Defense civilian personnel and shall only be reduced as part of military force structure reductions. Planned reductions in Department of Defense civilian personnel that would apply to such technician authorizations and personnel but for this paragraph shall be reallocated by the Secretary of Defense on a proportional basis throughout the Department of Defense, with an emphasis on reducing headquarters personnel.

(b) DUAL-STATUS REQUIREMENT.—The Secretary of Defense shall require the Secretary of the Army and the Secretary of the Air Force to establish as a condition of employment for each individual who is hired after the date of the enactment of this section as a military technician that the individual maintain membership in the Selected Reserve (so as to be a so-called "dual-status" technician) and shall require that the civilian and military position skill requirements of dual-status military technicians be combatible. No Department of Defense funds may be spent for compensation for any military technician hired after the date of the enactment of this section who is not a member of the Selected Reserve, except that compensation may be paid for up to six months following loss of membership in the selected reserve if such loss of membership was not due to the failure to meet military standards.

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PART II—PERSONNEL GENERALLY

Chap.		Sec.
1201.	Authorized Strengths and Distribution in Grade	12001
1203.	Enlisted Members	12101
	* * * * * * *	
1214.	*Ready Reserve Income Insurance*	*12521*
	* * * * * * *	

CHAPTER 1214—READY RESERVE INCOME INSURANCE

Sec.
12521. Definitions.
12522. Establishment and purpose of program.
12523. Program administration.
12524. Eligible insurance companies.
12525. Persons insured; amount.
12526. Deductions; payment.
12527. Payment of insurance; beneficiaries.
12528. Premiums; accounting to the Secretary.
12529. Forfeiture.

§ 12521. Definitions

In this chapter:

(1) The term "covered service" means active duty in the armed forces performed by a member of a reserve component under orders for more than 30 days which specify that the member's service is in support of an operational mission for which members of the reserve components have been ordered to active duty without their consent or in support of forces activated during a period of war or during a period of national emergency as declared by the President or Congress.

(2) The term "covered member" means a member of the Ready Reserve who is eligible for and who has not declined coverage under this chapter.

(3) The term "Secretary" means the Secretary of Defense.

(4) The term "Department" means the Department of Defense.

(5) The term "Board" means the Board of Actuaries established under section 2006(e)(1) of this title.

(6) The term "Fund" means the Department of Defense Ready Reserve Income Insurance Fund.

§ 12522. Establishment and purpose of program

(a) ESTABLISHMENT.—There is established an insurance program for members of the Ready Reserve to be known as the Department of Defense Ready Reserve Income Insurance Program which shall be administered by the Secretary. There is also established on the books of the Treasury a fund to be known as the Department of Defense Ready Reserve Income Insurance Fund, which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the Program.

(b) ASSETS OF FUND.—There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund under sections 12526 and 12528 of this title.

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(c) BOARD OF ACTUARIES.—The Department of Defense Education Benefits Fund Board of Actuaries shall have the actuarial responsibility for the Program.

(d) DETERMINATION OF CONTRIBUTIONS TO THE FUND.—(1) Not later than six months after the Program is established, the Board shall determine (project) the premium rate for the coverage to be offered.

(2) If at the time of any such valuation there has been a change in benefits under the Program that has been made since the last such valuation and such change in benefits increases or decreases the present value of amounts payable from the Fund, the Board shall determine a premium rate methodology and schedule for the liquidation of any liability (or actuarial gain to the Fund) created by such change and any previous such changes so that the present value of the sum of the scheduled premium payments (or reduction in payments that would otherwise be made) equals the cumulative increase (or decrease) in the present value of such benefits.

(3) If at the time of any such valuation the Board determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Board shall recommend a premium rate schedule for the amortization of the cumulative gain or loss to the Fund created by such change in assumptions and any previous such changes in assumptions through an increase or decrease in the payments that would otherwise be made to the Fund.

(4) If at any time liabilities exceed assets of the Fund as a result of a call up, and funds are unavailable to pay benefits, the Secretary shall seek a special appropriation to cover the unfunded liability. If appropriations are not made, in any fiscal year, the Secretary shall limit the value of any benefits conferred by this program to an amount that does not exceed assets of the Fund expected to accrue at the end of such fiscal year. Benefits that cannot be paid because of such limitation of funds shall be deferred and paid only after funds become available.

(e) PAYMENTS INTO THE FUND.—(1) Payment into the Fund under this subsection shall accumulate in accordance with the provisions of section 12526 of this title.

(2) At the beginning of each fiscal year, the Secretary shall determine the sum of the following:

(A) The projected amount of the premiums to be collected, investment earnings, and any special appropriations received for that fiscal year.

(B) The amount for that year of any cumulative unfunded liability (including any negative amount or any gain to the Fund) resulting from payments of benefits.

(C) The amount for that year (including any negative amount) of any cumulative actuarial gain or loss to the Fund.

(f) INVESTMENT OF ASSETS OF FUND.—The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary of Defense required to meet current liabilities. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.

§ 12523. Program administration

The insurance program provided for in this chapter shall be administered by the Secretary, who is authorized to adopt such rules,

procedures, and policies as in the Secretary's judgment may be necessary or appropriate to carry out the purposes of this chapter.

§ 12524. Eligible insurance companies

(a) The Secretary may, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), purchase from one or more insurance companies a policy or policies of group insurance to offer benefits to all members. Each such insurance company shall (1) be licensed to issue insurance in each of the 50 States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Secretary, have in effect at least 1 percent of the total amount of insurance which all such insurance companies have in effect in the United States.

(b) Any insurance company which issues a policy under subsection (a) shall establish an administrative office at a place and under a name designated by the Secretary.

(c) The Secretary may use the facilities and services of any insurance company issuing any policy under this chapter and may designate one such company as the representative of the other companies and contract to pay a reasonable fee to the designated company for its services.

(d) The Secretary shall arrange with the insurance company issuing any policy under this chapter to reinsure, under conditions approved by the Secretary, portions of the total amount of insurance under such policy or policies with such other insurance companies (which meet qualifying criteria set forth by the Secretary) as may elect to participate in such reinsurance.

(e) The Secretary may at any time discontinue any policy purchased under this section.

§ 12525. Persons insured; amount

(a)(1) Any policy of insurance provided under this chapter shall insure each covered member of the Ready Reserve against covered service. Any covered member ordered into covered service shall be entitled to payment of a basic benefit of $1,000 for each month of covered service which is in excess of the initial 30 days of covered service, unless the member has elected in writing (A) not to be insured under this chapter, (B) to be insured for a lower benefit of half the basic benefit, or (C) to be insured in a greater amount, in increments of $500, above the basic benefit not to exceed $5,000 per month of covered service (adjusted pursuant to paragraph (2)), following the initial 30 days of covered service, except that no member may be paid under this chapter for more than 12 months of covered service served during any period of 18 months. Payment for any period of covered service less than one month shall be at the rate of one-thirtieth of the monthly rate for each day served. Payment shall be based solely on insured status and on the period of covered service served; no proof of lost income or expenses incurred as a result of covered service shall be required.

(2) The Secretary shall determine annually the effect of inflation on the benefits and establish an adjustment rate which ensures that there is no loss of value in the benefits payable to a member. Adjustments shall apply to benefits for members with existing coverage

and for newly eligible members. Such adjustments for inflation will be rounded to the nearest $10 increment.

(3) Members of the Ready Reserve who, under regulations prescribed by the Secretary of Defense in coordination with the Secretary of Transportation, are serving on active duty (or full-time National Guard duty) shall not be eligible to purchase insurance under this chapter. Additional categories of members of the Ready Reserve, in the discretion of the Secretary of Defense, may also be excluded from eligibility to purchase insurance under this chapter.

(b) Promptly following the effective date of this chapter, the Secretary shall make a one-time offer of insurance coverage under this chapter to all persons who were members of the Ready Reserve of an armed force on that date and who remain members of the Ready Reserve. Members of the Ready Reserve, first becoming eligible for coverage after the effective date of this chapter, shall be automatically enrolled for the basic benefit unless declined, or another amount is elected under subsection (a)(1).

(c) Members shall be given a written explanation of the insurance and be advised that they have the right (1) to decline coverage altogether, (2) to select half the basic benefit, or (3) to select increased benefits. The right of a member of the Ready Reserve to decline, increase, or decrease coverage shall be exercised within 30 days of first being eligible for coverage.

§ 12526. Deductions; payment

(a)(1) During any period in which a member insured under this chapter is participating in paid reserve training or other duty, there shall be deducted each month from the member's basic pay or compensation for inactive duty training an amount determined by the Secretary to be the same for all members of the Ready Reserve who subscribe to the same amount of insurance as the share of the cost attributable to insuring such member. As provided in section 12525 of this title, the Secretary may establish graduated monthly premiums for an amount of insurance less than the basic amount of coverage or in excess of the basic coverage amount.

(2) Any member insured under this chapter who is not in a pay status in which the member receives pay on a monthly basis shall pay the cost attributable to insuring such member in accordance with regulations to be adopted by the Secretary.

(b) An amount equal to the first amount due on insurance under this chapter may be advanced from current appropriations for military pay to any such member, which amount shall constitute a lien upon the pay for military service accruing to the person to whom such advance was made, and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss by reason of such advance.

(c) The sums withheld from the basic or other pay of insured members or deposited by insured members, together with the income derived from any dividends or premium rate adjustments, shall be deposited to the credit of the Fund. All premium payments for insurance issued under this chapter shall be deposited into the Fund.

§ 12527. Payment of insurance; beneficiaries

(a) A member insured under this chapter who serves in excess of 30 days of covered service shall be paid the amount to which such member is entitled on a monthly basis, with the first payment due no later than one month following the 30th day of covered service. The Secretary shall adopt regulations prescribing the manner in which payments shall be made, either to the member or, in accordance with subsection (d), to a designated person or entity.

(b) A member may designate in writing another person (including a spouse, parent, or other person with an insurable interest as determined by the Secretary by regulation) to whom the insurance payments to which such member is entitled are to be paid. Such designation may be made to a bank or other financial institution, to the credit of a designated person. In the latter event, insurance payments to which a member becomes entitled shall be paid to the designated person, bank or financial institution.

(c) Any amount of insurance payable under this chapter on account of a deceased member's period of covered service shall be paid, upon the establishment of a valid claim therefor, to the beneficiary or beneficiaries which the former member had designated in writing. If no such designation has been made, the amount shall be payable in accordance with the laws of the State of the member's domicile.

§ 12528. Premiums; accounting to the Secretary

(a) Each policy of insurance provided by the Secretary under this chapter shall include for the first policy years a fixed monetary premium per $1,000 of insurance, based, in consultation with the Board, on the best available estimate of risk and financial exposure, levels of subscription by members, and other relevant factors. Different premium levels may be established for different amounts of coverage, provided that the premium rate established for the basic benefit shall not be at a premium rate higher than the premium rate set for increased coverages.

(b) Each policy shall include provisions whereby the premium rate for the first policy year shall be continued for subsequent policy years (but the premium amount may be increased to account for inflation-adjusted benefit increases). The rate may be readjusted for any subsequent year with the consent of the Secretary based on prior consultation with the Board of Actuaries.

§ 12529. Forfeiture

Any person found guilty of mutiny, treason, spying, or desertion, or who refuses to perform service in the armed forces or refuses to wear the uniform of any of the armed forces, shall forfeit all rights to insurance under this chapter.

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PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

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CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

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§ 16131. Educational assistance program: establishment; amount

(a) * * *

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(j)(1) In the case of a person who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under subparagraphs (A) through (D) of subsection (b)(1) as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed $350 per month.

(2) The authority provided by paragraph (1) shall be exercised by the Secretaries of the military departments under regulations prescribed by the Secretary of Defense.

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CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

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§ 16201. Financial assistance: health-care professionals in reserve components

(a) * * *

(b) PHYSICIANS *AND DENTISTS* IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is a graduate of a medical school *or dental school*;

(B) is eligible for appointment, designation, or assignment as a medical officer *or dental officer* in the Reserve of the armed force concerned; and

(C) is enrolled or has been accepted for enrollment in a residency program for ¿physicians in a medical specialty *physicians or dentists in a medical or dental specialty* designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e), for the period or the remainder of the period of the residency program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as a medical officer *or dental officer* for service in the Ready Reserve;

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CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

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§ 16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties

(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); ¿or

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

¿(B) *(C)* any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

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§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages

(a) Under regulations prescribed by the Secretary of Defense and subject to the other provisions of this section, the Secretary concerned may repay—

(1) * * *

(2) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

¿(2) *(3)* a loan made under part E of such title (20 U.S.C. 1087aa et seq.) after October 1, 1975;

¿(3) *(4)* a health professions education loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part B of title VIII of such Act (42 U.S.C. 297 et seq.); and

¿(4) *(5)* a loan made, insured, or guaranteed through a recognized financial or educational institution if that loan was used to finance education regarding a health profession that the Secretary of Defense determines to be critically needed in order to meet identified wartime combat medical skill shortages.

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(d) The authority provided in this section shall apply only in the case of a person first appointed as a commissioned officer before October 1, ¿1996 *1998.*

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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¿PART C—MISSILE DEFENSE PROGRAM

¿SEC. 231. SHORT TITLE.

¿This part may be cited as the "Missile Defense Act of 1991".

¿SEC. 232. MISSILE DEFENSE GOALS OF THE UNITED STATES.

¿(a) MISSILE DEFENSE GOALS OF THE UNITED STATES.—It is a goal of the United States to—

¿(1) comply with the ABM Treaty, including any protocol or amendment thereto, and not develop, test, or deploy any ballistic missile defense system, or component thereof, in violation of the treaty, as modified by any protocol or amendment thereto, while developing, and maintaining the option to deploy, an anti-ballistic missile system that is capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles;

¿(2) maintain strategic stability; and

¿(3) provide highly effective theater missile defenses (TMDs) to forward-deployed and expeditionary elements of the Armed Forces of the United States and, as appropriate, to friends and allies of the United States.

¿(b) ENDORSEMENT OF ADDITIONAL MEASURES.—As an additional component of the overall goal of protecting the United States against the threat posed by ballistic missiles, Congress endorses such additional measures as—

¿(1) joint discussions between the United States and other nuclear weapons states on strengthening nuclear command and control, to include discussions concerning the use of permissive action links and post-launch destruct mechanisms on all intercontinental-range ballistic missiles of the two nations;

¿(2) reductions that enhance stability in strategic weapons of the United States and Russia to levels below the limitations of the Strategic Arms Reduction Talks (START) Treaties, to include the down-loading of multiple warhead ballistic missiles, as appropriate; and

¿(3) reinvigorated efforts to halt the proliferation of ballistic missiles and weapons of mass destruction.

¿SEC. 233. IMPLEMENTATION OF GOAL.

¿(a) IN GENERAL.—To implement the goal specified in section 232(a), the Congress—

¿(1) directs the Secretary of Defense to take the actions specified in subsection (b); and

¿(2) urges the President to take the actions described in subsection (c).

¿(b) ACTIONS OF THE SECRETARY OF DEFENSE.—

¿(1) THEATER MISSILE DEFENSE SYSTEMS.—The Secretary of Defense shall develop advanced theater missile defense systems for deployment in compliance with the ABM Treaty, including any protocol or amendment thereto.

¿(2) INITIAL ABM DEPLOYMENT.—The Secretary shall conduct a research and development program to develop and maintain the option to deploy a cost-effective, operationally effective, and ABM Treaty-compliant antiballistic missile system at a single site as the initial step toward deployment of an antiballistic missile system described in section 232(a)(1) designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or Third World attacks. The system components to be developed shall include—

¿(A) 100 ground-based interceptors, the design of which is to be determined by competition and downselection for the most capable interceptor or interceptors;

¿(B) fixed, ground-based, antiballistic missile battle management radars; and

¿(C) optimum utilization of space-based sensors, including sensors capable of cueing ground-based antiballistic missile interceptors and providing initial targeting vectors, and other sensor systems that are not prohibited by the ABM Treaty, including specifically the Ground Surveillance and Tracking System.

¿(c) PRESIDENTIAL ACTIONS.—Congress urges the President to pursue immediate discussions with Russia and other successor states of the former Soviet Union, as appropriate, on the feasibility of, and mutual interest in, amendments to the ABM Treaty to permit—

¿(1) clarification of the distinctions for the purposes of the ABM Treaty between theater missile defenses and anti-ballistic missile defenses, including interceptors, radars, and other sensors; and

¿(2) increased use of space-based sensors for direct battle management.

¿SEC. 238. REVIEW OF FOLLOW-ON DEPLOYMENT OPTIONS.

¿Once development testing of components for a Limited Defense System has begun, the President and the Congress shall assess the progress in the ABM Treaty amendments negotiation called for under section 233(c) and shall consider the options available to the United States as now exist under the ABM Treaty. To assist in this review process, the President shall submit to the Congress not later than May 1, 1994, an interim report on the progress of the negotiations, and shall submit to the Congress additional interim reports on the progress of such negotiations at six-month intervals thereafter until such time as the President notifies the Congress that such negotiations have been concluded or terminated.

¿SEC. 239. ABM TREATY DEFINED.

¿For purposes of this part, the term "ABM Treaty" means the Treaty between the United States of America and the Union of So-

viet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

¿SEC. 240. INTERPRETATION.

¿Nothing in this part may be construed to imply—

¿(1) congressional authorization for development, testing, or deployment of anti-ballistic missile systems in violation of the ABM Treaty, including any protocol or amendment to that treaty; or

¿(2) final congressional authorization for deployment of anti-ballistic missile systems in compliance with the ABM Treaty.

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TITLE III—OPERATION AND MAINTENANCE

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PART B—LIMITATIONS

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¿SEC. 316. LIMITATIONS ON THE USE OF DEFENSE BUSINESS OPERATIONS FUND.

¿(a) MANAGEMENT METHOD.—The Secretary of Defense may manage the performance of the working-capital funds and industrial, commercial, and support type activities described in subsection (b) through the use of a single Defense Business Operations Fund (in this section referred to as the "Fund"). Except for the funds and activities specified in subsection (b), no other functions, activities, funds, or accounts of the Department of Defense may be managed through the Defense Business Operations Fund.

¿(b) FUNDS AND ACTIVITIES INCLUDED.—The funds and activities referred to in subsection (a) are—

¿(1) working-capital funds established under section 2208 of title 10, United States Code, and in existence on the date of the enactment of this Act;

¿(2) those activities that, on the date of the enactment of this Act, are funded through the use of a working-capital fund established under that section; and

¿(3) the Defense Finance and Accounting Service, the Defense Industrial Plant Equipment Center, the Defense Commissary Agency, the Defense Technical Information Service, and the Defense Reutilization and Marketing Service.

¿(c) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—For purposes of accounting, financial reporting, and auditing, the Secretary of Defense shall maintain—

¿(1) the separate identity of each fund and activity managed through the Fund that (before the establishment of the Fund) was managed as a separate fund or activity; and

¿(2) separate records for each function for which payment is made through the Fund and which (before the establishment of the Fund) was paid directly through appropriations, including the separate identity of the appropriation account used to pay for the performance of the function.

¿(d) COMPREHENSIVE MANAGEMENT PLAN.—(1) Not later than 30 days after the date of the enactment of the National Defense Au-

thorization Act for Fiscal Year 1994, the Secretary of Defense shall submit to the congressional defense committees a comprehensive management plan for the Defense Business Operations Fund. The Secretary shall identify in the plan the actions the Secretary will take to improve the implementation and operation of the Defense Business Operations Fund.

¿(2)(A) The plan shall also include the following matters:

¿(i) The specific tasks to be performed to address the serious shortcomings that exist in the Fund's implementation and operation.

¿(ii) Milestones for starting and completing each task.

¿(iii) A statement of the resources needed to complete each task.

¿(iv) The specific organizations within the Department of Defense that are responsible for accomplishing each task.

¿(v) Department of Defense plans to monitor the implementation of all corrective actions.

¿(B) The plan shall also address the following specific areas:

¿(i) The management and organizational structure of the Fund.

¿(ii) The development and implementation of the policies and procedures, including cash management and internal controls, applicable to the Fund.

¿(iii) Management reporting, including financial and operational reporting.

¿(iv) Accuracy and reliability of cost accounting data.

¿(v) Development and use of performance indicators to measure the efficiency and effectiveness of Fund operations.

¿(vi) The status of efforts to develop and implement new financial systems for the Fund.

¿(e) PROGRESS REPORT ON IMPLEMENTATION.—Not later than February 1, 1994, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made in implementing the comprehensive management plan required by subsection (d). The report shall describe the progress made in reaching the milestones established in the plan and provide an explanation for the failure to meet any of the milestones. The Secretary shall submit a copy of the report to the Comptroller General of the United States at the same time the Secretary submits the report to the congressional defense committees.

¿(f) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—(1) The Comptroller General shall monitor and evaluate the progress of the Department of Defense in developing and implementing the comprehensive management plan required by subsection (d).

¿(2) Not later than March 1, 1994, the Comptroller General shall submit to the congressional defense committees a report containing the following:

¿(A) The findings and conclusions of the Comptroller General resulting from the monitoring and evaluation conducted under paragraph (1).

¿(B) An evaluation of the progress report submitted to the congressional defense committees by the Secretary of Defense pursuant to subsection (e).

¿(C) Any recommendations for legislation or administrative action concerning the Fund that the Comptroller General considers appropriate.

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PART C—ENVIRONMENTAL PROVISIONS

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SEC. 343. USE OF PROCEEDS FROM THE SALE OF CERTAIN LOST, ABANDONED, OR UNCLAIMED PERSONAL PROPERTY.

(a) ¿DEMONSTRATION PROJECT *SPECIAL RULE REGARDING PROCEEDS*.—Notwithstanding section 2575(b) of title 10, United States Code, the Secretary of Defense shall conduct a ¿demonstration project *permanent program* under which the proceeds from the sale under that section of lost, abandoned, or unclaimed property found on a military installation referred to in subsection (b) shall be credited to the operation and maintenance account of that installation and used—

(1) * * *

* * * * * * *

¿(d) PERIOD OF DEMONSTRATION PROJECT.—The demonstration project required by subsection (a) shall—

¿(1) terminate at the end of the two-year period beginning on the date of the enactment of this Act; and

¿(2) apply with respect to the disposal during that period under section 2575 of title 10, United States Code, of property found on the military installations referred to in subsection (b).

¿(e) REPORT.—Not later than 60 days after the end of the two-year period described in subsection (d), the Secretary of Defense shall submit a report to Congress describing the results of the demonstration project required by subsection (a).

(d) APPLICATION OF SPECIAL RULE.—The special rule provided by subsection (a) shall apply with respect to the disposal under section 2575 of title 10, United States Code, of property found on the military installations referred to in subsection (b).

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

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PART B—RESERVE FORCES

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SEC. 414. PILOT PROGRAM FOR ACTIVE COMPONENT SUPPORT OF THE RESERVES.

(a) * * *

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(c) PERSONNEL TO BE ASSIGNED.—*(1)* The Secretary shall assign not less than 2,000 active component personnel to serve as advisers under the program. After September 30, 1994, the number under the preceding sentence shall be increased to not less than 5,000.

(2) The Secretary of Defense may count toward the number of active component personnel required under paragraph (1) to be assigned to serve as advisers under the program under this section any active component personnel who are assigned to an active component unit (A) that was established principally for the purpose of providing dedicated training support to reserve component units, and (B) the primary mission of which is to provide such dedicated training support.

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DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1992".

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TITLE XXVIII—GENERAL PROVISIONS

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PART B—DEFENSE BASE CLOSURE AND REALIGNMENT

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SEC. 2827. FUNDING FOR ENVIRONMENTAL RESTORATION AT MILITARY INSTALLATIONS TO BE CLOSED AND REPORT ON ENVIRONMENTAL RESTORATION COSTS AT SUCH INSTALLATIONS.

(a) * * *

¿(b) REPORT ON ENVIRONMENTAL RESTORATION COSTS FOR INSTALLATIONS TO BE CLOSED UNDER 1990 BASE CLOSURE LAW.—(1) Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31, United States Code), the Secretary of Defense shall submit to Congress a report on the funding needed for the fiscal year for which the budget is submitted, and for each of the following four fiscal years, for environmental restoration activities at each military installation described in paragraph (2), set forth separately by fiscal year for each military installation.

¿(2) The report required under paragraph (1) shall cover each military installation which is to be closed pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510).

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DEPARTMENT OF DEFENSE AUTHORIZATION ACT 1986

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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PART B—STRATEGIC DEFENSE INITIATIVE

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¿SEC. 222. REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR DEPLOYMENT OF STRATEGIC DEFENSE INITIATIVE SYSTEM.

¿A strategic defense system developed as a consequence of research, development, test, and evaluation conducted on the Strategic Defense Initiative program may not be deployed in whole or in part unless—

¿(1) the President determines and certifies to Congress in writing that—

¿(A) the system is survivable (that is, the system is able to maintain a sufficient degree of effectiveness to fulfull its mission, even in the face of determined attacks against it); and

¿(B) the system is cost effective at the margin to the extent that the system is able to maintain its effectiveness against the offense at less cost than it would take to develop offensive countermeasures and proliferate the ballistic missiles necessary to overcome it; and

¿(2) funding for the deployment of such system has been specifically authorized by legislation enacted after the date on which the President makes the certification to Congress.

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¿SEC. 225. CONGRESSIONAL EXPRESSION ON THE STRATEGIC DEFENSE INITIATIVE AND THE ABM TREATY.

¿(a) FINDINGS REGARDING ABM TREATY.—The Congress finds—

¿(1) that the President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972"; and

¿(2) that the Secretary of State has stated that the "ABM Treaty requires consultations, and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiation between the Parties".

¿(b) SENSE OF CONGRESS REGARDING SDI AND THE ABM TREATY.—It is the sense of Congress—

¿(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Anti-Ballistic Missile Treaty of 1972;

¿(2) that action by the Congress in approving funds for research on the Strategic Defense Initiative—

¿(A) does not express or imply an intention on the part of the Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

¿(B) does not express or imply any determination or commitment on the part of the Congress that the United

States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty; and

¿(3) that funds appropriated for the Strategic Defense Initiative program should not be used in a manner inconsistent with any of the treaties commonly known as the Limited Test Ban Treaty, the Threshold Test Ban Treaty, the Outer Space Treaty, or the Anti-Ballistic Missile Treaty of 1972.

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¿TITLE VIII—MILITARY FAMILY POLICY AND PROGRAMS

¿SEC. 801. SHORT TITLE.

¿This title may be cited as the "Military Family Act of 1985".

¿SEC. 802. OFFICE OF FAMILY POLICY.

¿(a) ESTABLISHMENT.—There is hereby established in the Office of the Secretary of Defense an Office of Family Policy (hereinafter in this section referred to as the "Office"). The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel.

¿(b) DUTIES.—The Office—

¿(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and

¿(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.

¿(c) STAFF.—The Office shall have not less than five professional staff members.

¿(d) REPORT.—The Secretary of Defense shall submit a report to Congress concerning the Office no later than September 30, 1986. The report shall include—

¿(1) a description of the activities of the Office and the composition of its staff; and

¿(2) the recommendations of the Office for legislative and administrative action to enhance the well-being of military families.

¿SEC. 803. TRANSFER OF MILITARY FAMILY RESOURCE CENTER.

¿The Military Family Resource Center of the Department of Defense is hereby transferred from the Office of the Assistant Secretary of Defense for Health Affairs to the Office of the Assistant Secretary for Force Management and Personnel.

¿SEC. 804. SURVEYS OF MILITARY FAMILIES.

¿The Secretary of Defense may conduct surveys of members of the Armed Forces serving on active duty, members of the families of such members, and retired members of the Armed Forces to determine the effectiveness of existing Federal programs relating to military families and the need for new programs. Responses to surveys conducted under this section shall be voluntary. With respect to such surveys, family members of members of the Armed Forces and retired members of the Armed Forces shall be considered to be employees of the United States for purposes of section 3502(4)(A) of title 44, United States Code.

¿SEC. 805. FAMILY MEMBERS SERVING ON ADVISORY COMMITTEES.

¿A committee within the Department of Defense which advises or assists the Department in the performance of any function which affects members of military families and which includes members of military families in its membership shall not be considered an advisory committee under section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.) solely because of such membership.

¿SEC. 806. EMPLOYMENT OPPORTUNITIES FOR MILITARY SPOUSES.

¿(a) AUTHORITY.—The President shall order such measures as the President considers necessary to increase employment opportunities for spouses of members of the Armed Forces. Such measures may include—

¿(1) excepting, pursuant to section 3302 of title 5, United States Code, from the competitive service positions in the Department of Defense located outside of the United States to provide employment opportunities for qualified spouses of members of the Armed Forces in the same geographical area as the permanent duty station of the members; and

¿(2) providing preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the Armed Forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade UA–8 and below and equivalent positions and for positions paid at hourly rates.

¿(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations—

¿(1) to implement such measures as the President orders under subsection (a);

¿(2) to provide preference to qualified spouses of members of the Armed Forces in hiring for any civilian position in the Department of Defense if the spouse is among persons determined to be best qualified for the position and if the position is located in the same geographical area as the permanent duty station of the member;

¿(3) to ensure that notice of any vacant position in the Department of Defense is provided in a manner reasonably designed to reach spouses of members of the Armed Forces whose permanent duty stations are in the same geographic area as the area in which the position is located; and

¿(4) to ensure that the spouse of a member of the Armed Forces who applies for a vacant position in the Department of Defense shall, to the extent practicable, be considered for any such position located in the same geographic area as the permanent duty station of the member.

¿(c) STATUS OF PREFERENCE ELIGIBLES.—Nothing in this section shall be construed to provide a spouse of a member of the Armed Forces with preference in hiring over an individual who is a preference eligible.

¿SEC. 807. YOUTH SPONSORSHIP PROGRAM.

¿The Secretary of Defense shall direct that there be established at each military installation a youth sponsorship program to facilitate the integration of dependent children of members of the

Armed Forces into new surroundings when moving to that military installation as a result of a parent's permanent change of station. Such a program shall, to the extent feasible, provide for involvement of dependent children of members presently stationed at the military installation.

¿SEC. 808. DEPENDENT STUDENT TRAVEL WITHIN THE UNITED STATES.

¿Funds available to the Department of Defense for the travel and transportation of dependent students of members of the Armed Forces stationed overseas may be obligated for transportation allowances for travel within or between the contiguous States.

¿SEC. 809. RELOCATION AND HOUSING.

¿(a) RELOCATION ASSISTANCE.—The Secretary of Defense shall submit to Congress a report on the desirability and feasibility of providing relocation assistance to members of the uniformed services and their families through contracts entered into by the Department of Defense with firms which provide such assistance to individuals. Such report shall be submitted not later than March 1, 1986.

¿(b) AMORTIZATION PERIOD FOR PARKING FACILITIES FOR HOUSE TRAILERS AND MOBILE HOMES.—Section 403(k) of title 37, United States Code, is amended by striking out "15-year period" and inserting in lieu thereof "25-year period".

¿(c) COST OF UNACCOMPANIED PERSONNEL HOUSING FOR MEMBERS OF UNIFORMED SERVICE.—Section 5911 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

¿"(h) A member of the uniformed service on a permanent change of duty station or temporary duty orders and occupying unaccompanied personnel housing—

¿"(1) is exempt from the requirement of subsection (c) to pay a rental rate or charge based on the reasonable value of the quarters and facilities provided; and

¿"(2) shall pay such lesser rate or charge as the Secretary of Defense establishes by regulation.".

¿SEC. 810. FOOD PROGRAMS.

¿(a) FOOD COSTS FOR CERTAIN ENLISTED MEMBERS.—Section 1011 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

¿"(c) Spouses and dependent children of enlisted members in pay grades E–1, E–2, E–3, and E–4 may not be charged for meals sold at messes in excess of a level sufficient to cover food costs.".

¿(b) REPORT ON ISSUANCE OF FOOD STAMPS COUPONS TO OVERSEAS HOUSEHOLDS OF MEMBERS STATIONED OUTSIDE THE UNITED STATES.—(1) The Secretary of Defense shall submit to Congress a report on the feasibility of having the Department issue food stamp coupons to overseas households of members stationed outside the United States.

¿(2) The report shall include—

¿(A) an estimate of the cost of providing the coupons; and

¿(B) legislative and administrative recommendations for providing for the issuance of the coupons.

¿(3) The report shall be submitted not later than December 31, 1985.

¿SEC. 811. REPORTING OF CHILD ABUSE.

¿(a) IN GENERAL.—The Secretary of Defense shall request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the Armed Forces (or the spouse of the member).

¿(b) DEFINITION.—For purposes of this section the term ''child abuse and neglect'' shall have the same meaning as provided in section 3(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102).

¿SEC. 812. MISCELLANEOUS REPORTING REQUIREMENTS.

¿(a) HOUSING AVAILABILITY.—(1) The Secretary of Defense shall submit to Congress a report on the availability and affordability of off-base housing for members of the Armed Forces and their families.

¿(2) The report shall—

¿(A) examine the availability of affordable housing for each pay grade and for all geographic areas within the United States and for appropriate overseas locations; and

¿(B) examine the relocation assistance provided by the Department of Defense incident to a permanent change of station by a member of the Armed Forces in locating housing at the member's new duty station and in disposing of housing at the member's old duty station.

¿(3) The report shall be submitted within one year after the date of the enactment of this Act.

¿(b) NEED FOR ASSISTANCE TO DEPENDENTS ENTERING NEW SECONDARY SCHOOLS.—The Secretary of Defense shall submit to Congress a report recommending administrative and legislative action to assist families of members of the Armed Forces making a permanent change of station so that a dependent child who transfers between secondary schools with different graduation requirements is not subjected to unnecessary disruptions in education or inequitable, unduly burdensome, or duplicative education requirements. Such report shall be submitted within one year after the date of the enactment of this Act.

¿SEC. 813. EFFECTIVE DATE.

¿This title shall take effect on October 1, 1985.

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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PART C—STRATEGIC DEFENSE INITIATIVE

Subpart 1—SDI Funding and Program Limitations and Requirements

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¿SEC. 226. PROHIBITION ON DEPLOYMENT OF ANTI-BALLISTIC MISSILE SYSTEM UNLESS AUTHORIZED BY LAW.

¿The Secretary of Defense may not deploy any anti-ballistic missile system unless such deployment is specifically authorized by law after the date of the enactment of this Act.

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TITLE XII—GENERAL PROVISIONS

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PART B—FORCE STRUCTURE AND POLICY

SEC. 1211. IMPLEMENTATION OF SPECIAL OPERATIONS FORCES REORGANIZATION.

(a) * * *

(b) RESOURCES FOR CINCSOF.—The Secretary of Defense shall provide sufficient resources for the commander of the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code, to carry out his duties and responsibilities, including particularly his duties and responsibilities relating to the following functions:

(1) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

(2) Providing advice and assistance to ¿the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict *the official designated by the Secretary of Defense to have principal responsibility for matters relating to special operations and low intensity conflict* in the Assistant Secretary's overall supervision of the preparation and justification of the program recommendations and budget proposals for special operations forces.

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SECTION 8123 OF THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

¿SEC. 8123. Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

¿Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible posi-

tion to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

¿Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counter-productive arms control proposals;

¿Whereas no decision has been made on the development or deployment of strategic defenses:

¿Therefore, it is the sense of the Congress that—

¿(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

¿(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

¿(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

¿(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992

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TITLE VIII

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¿SEC. 8121. (a) There is established on the books of the Treasury a fund entitled the "Defense Business Operations Fund" (hereinafter referred to as the "Fund") to be operated as a working capital fund under the provisions of section 2208 of title 10, United States Code. Existing organizations which shall operate as part of the Fund shall include, but not be limited to, (1) The Defense Finance and Accounting Service; (2) The Defense Commissary Agency; (3) The Defense Technical Information Center; (4) The Defense Reutilization and Marketing Service; and (5) The Defense Industrial Plant Equipment Service.

¿(b) Upon the enactment of this Act, there shall be transferred to the Fund all assets and balances of working capital funds heretofore established under the provisions of section 2208 of title 10, United States Code.

¿(c) Amounts charged for supplies and services provided by the Fund shall include capital asset charges which shall be calculated so that the total amount of the charges assessed during any fiscal

year shall equal the total amount of (1) the costs of equipment purchased during that fiscal year by the Fund for the purpose of providing supplies and services by the Fund and (2) the costs, other than costs of military construction, of capital improvements made for the purpose of providing services by the Fund.

¿(d) Capital asset charges collected pursuant to the provisions of subsection (c) shall be credited to a subaccount of the Fund which shall be available only for the payment of: (1) the costs of equipment purchased by the Fund for the purpose of providing supplies and services by the Fund and (2) the costs other than costs of military construction, of capital improvements made for the purposes of providing services by the Fund.

* * * * * * *

¿SEC. 8133. (a) Congress finds that:

¿(1) The NATO Alliance has been a cornerstone of United States and world security since its foundation in 1949.

¿(2) All America's NATO allies have in the past been supportive of the objects and purposes of the ABM Treaty.

¿(3) Two of America's NATO allies have strategic forces of their own, which would be directly affected by significant changes to the ABM Treaty.

¿(4) Changes in the ABM Treaty would have profound political and security implications for every member of the NATO Alliance and other allies of the United States.

¿(b) Before initiating negotiations with the Soviet Union with the objective of making significant modifications to the Anti-Ballistic Missile Treaty, and its associated protocol, the President should consult with the allies of the United States in the North Atlantic Treaty Organization, Japan, and other allies as appropriate and seek a consensus on negotiating objectives concerning defensive systems that would enhance the security interests of the member states of NATO and other allies and strengthen the NATO Alliance as a whole.

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

Associate Administrator of the National Aeronautics and Space Administration.

Assistant Administrators, Agency for International Development (6).

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Assistant Secretaries of Defense ¿(11) *(9)*.

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Subpart E—Attendance and Leave

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CHAPTER 61—HOURS OF WORK

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SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

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§ 6121. Definitions

For purposes of this subchapter—

(1) "agency" means any Executive agency, any military department, the Government Printing Office, and the Library of Congress;

¿(2) "employee" has the meaning given it by section 2105 of this title;

(2) "employee" has the meaning given it by section 2105(a) and also includes those paid from nonappropriated funds of the Army and Air Force Exchange Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces;

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CHAPTER 63—LEAVE

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SUBCHAPTER II—OTHER PAID LEAVE

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§ 6323. Military leave; Reserves and National Guardsmen

(a) * * *

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(d)(1) A military reserve technician described in section 8401(30) is entitled at such person's request to leave without loss of, or reduction in, pay, leave to which such person is otherwise entitled, credit for time or service, or performance or efficiency rating for each day, not to exceed 44 workdays in a calendar year, in which such person is on active duty without pay, as authorized pursuant to section 12315 of title 10, under section 12301(b) or 12301(d) of title 10 (other than active duty during a war or national emergency declared by the President or Congress) for participation in noncombat operations outside the United States, its territories and possessions.

(2) An employee who requests annual leave or compensatory time to which the employee is otherwise entitled, for a period during which the employee would have been entitled upon request to leave under this subsection, may be granted such annual leave or compensatory time without regard to this section or section 5519.

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Subpart G—Insurance and Annuities

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CHAPTER 89—HEALTH INSURANCE

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§ 8905a. Continued coverage

(a) * * *

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(d)(1) * * *

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(4)(A) If the basis for continued coverage under this section is an involuntary separation from a position, *or a voluntary separation from a surplus position,* in or under the Department of Defense due to a reduction in force—

(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).

* * * * * * *

(C) For the purpose of this paragraph, "surplus position" means a position which is identified in pre-reduction in force planning as no longer required, and which is expected to be eliminated under formal reduction-in-force procedures.

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TITLE 37, UNITED STATES CODE

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CHAPTER 3—BASIC PAY

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§ 204. Entitlement

(a) * * *

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(g)(1) A member of a reserve component of a uniformed service is entitled, to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing active duty;

(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); ¿or

(C) while traveling directly to or from such duty or training¿. *; or*

(D) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, and the site is outside reasonable commuting distance from the member's residence.

* * * * * * *

(h)(1) A member of a reserve component of a uniformed service who is physically able to perform his military duties, is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from nonmilitary employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing active duty;

(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); ¿or

(C) while traveling directly to or from that duty or training¿. *; or*

(D) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, and the site is outside reasonable commuting distance from the member's residence.

* * * * * * *

§ 206. Reserves; members of National Guard: inactive-duty training

(a) Under regulations prescribed by the Secretary concerned, and to the extent provided for by appropriations, a member of the National Guard or a member of a reserve component of a uniformed service who is not entitled to basic pay under section 204 of this title, is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay—

(1) * * *

* * * * * * *

(3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing—

(i) active duty; or

(ii) inactive-duty training; ¿or

(B) while traveling directly to or from that duty or training (unless such injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member)¿. *; or*

(C) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, and the site is outside reasonable commuting distance from the member's residence.

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CHAPTER 5—SPECIAL AND INCENTIVE PAYS

Sec.
301. Incentive pay: hazardous duty.
301a. Incentive pay: aviation career.
301b. Special pay: aviation career officers extending period of active duty.

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302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties.

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§ 301a. Incentive pay: aviation career

(a)(1) * * *

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(4) To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for ¿9 *8* of the first 12, and 12 of the first 18 years of the aviation service of the officer. However, if an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 10 but less than 12 of the first 18 years of the aviation service of the officer, the officer will be entitled to continuous monthly incentive pay for the first 22 years of the officer's service as an officer. Entitlement to continuous monthly incentive pay

ceases for an officer (other than a warrant officer) upon completion of 25 years of service as an officer (as computed under section 205 of this title), but such an officer in a pay grade below pay grade O–7 remains entitled to monthly incentive pay under subsection (b)(1) for the performance of operational flying duty.

* * * * * * *

§ 301b. Special pay: aviation career officers extending period of active duty

(a) BONUS AUTHORIZED.—An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on ¿September 30, 1995 *September 30, 1998*, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

* * * * * * *

§ 302d. Special pay: accession bonus for registered nurses

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on November 29, 1989, and ending on ¿September 30, 1996 *September 30, 1998*, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

* * * * * * *

§ 302e. Special pay: nurse anesthetists

(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b)(1) who, during the period beginning on November 29, 1989, and ending on ¿September 30, 1996 *September 30, 1998*, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $15,000 for any 12-month period.

* * * * * * *

§ 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties

(a) SPECIAL PAY AUTHORIZED.—An officer of a reserve component of the armed forces described in subsection (b) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

(b) ELIGIBLE OFFICERS.—An officer referred to in subsection (a) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(c) TIME FOR PAYMENT.—Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(d) REFUND REQUIREMENT.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

(e) INAPPLICABILITY OF DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person receiving special pay under the agreement from the debt arising under the agreement.

(f) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after September 30, 1998.

* * * * * * *

§ 303a. Special pay: health professionals; general provisions

(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 301d, ¿302, 302a, 302b, 302c, 302d, 302e, *302 through 302g,* and 303 of this title.

(b) Special pay authorized under sections 301d, ¿302, 302a, 302b, 302c, 302d, 302e, *302 through 302g,* and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, separation pay, severance pay, or readjustment pay.

(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 301d, ¿302, 302a, 302b, 302c, 302d, 302e, *302 through 302g,* and 303 of this title.

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§ 305a. Special pay: career sea pay

(a) * * *

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(d)(1) In this section, the term "sea duty" means duty performed by a member—

(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while under way ¿or , while serving as a member of the off-crew of a two-crewed submarine, *or while serving as a member of a tender-class ship (with the hull classification of submarine or destroyer)*; or

* * * * * * *

§ 307. Special pay: special duty assignment pay for enlisted members

(a) An enlisted member who is entitled to basic pay and is performing duties which have been designated under subsection (b) as extremely difficult or as involving an unusual degree of responsibility in a military skill may, in addition to other pay or allowances to which he is entitled, be paid special duty assignment pay at a monthly rate not to exceed $275. *In the case of a member who is serving as a military recruiter and is eligible for special duty assignment pay under this subsection on account of such duty, the Secretary concerned may increase the monthly rate of special duty assignment pay for the member to not more than $375.*

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§ 308. Special pay: reenlistment bonus

(a) * * *

* * * * * * *

(g) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty reenlistment, in the armed forces entered into after ¿September 30, 1996 *September 30, 1998.*

§ 308a. Special pay: enlistment bonus

(a) * * *

* * * * * * *

(c) No bonus shall be paid under this section with respect to any enlistment or extension of an initial period of active duty in the armed forces made after ¿September 30, 1996 *September 30, 1998.*

§ 308b. Special pay: reenlistment bonus for members of the Selected Reserve

(a) * * *

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(f) No bonus may be paid under this section to any enlisted member who, after ¿September 30, 1996 *September 30, 1998,* reenlists or voluntarily extends his enlistment in a reserve component.

§ 308c. Special pay: bonus for enlistment in the Selected Reserve

(a) * * *

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(e) No bonus may be paid under this section to any enlisted member who, after ¿September 30, 1996 *September 30, 1998,* enlists in the Selected Reserve of the Ready Reserve of an armed force.

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§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain high priority units

(a) * * *

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(c) Additional compensation may not be paid under this section for inactive duty performed after ¿September 30, 1996 *September 30, 1998*.

§ 308e. Special pay: bonus for reserve affiliation agreement

(a) * * *

* * * * * * *

(e) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after ¿September 30, 1996 *September 30, 1998*.

§ 308f. Special pay: bonus for enlistment in the Army

(a) * * *

* * * * * * *

(c) No bonus may be paid under this section with respect to an enlistment in the Army after ¿September 30, 1996 *September 30, 1998*.

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§ 308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve

(a) * * *

* * * * * * *

(g) A bonus may not be paid under this section to any person for a reenlistment, enlistment, or voluntary extension of an enlistment after ¿September 30, 1996 *September 30, 1998*.

§ 308i. Special pay: prior service enlistment bonus

(a) * * *

* * * * * * *

(i) No bonus may be paid under this section to any person for an enlistment after ¿September 30, 1996 *September 30, 1998*.

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§ 312. Special pay: nuclear-qualified officers extending period of active duty

(a) * * *

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(e) The provisions of this section shall be effective only in the case of officers who, on or before ¿September 30, 1996 *September 30, 1998*, execute the required written agreement to remain in active service.

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§ 312b. Special pay: nuclear career accession bonus

(a) * * *

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(c) The provisions of this section shall be effective only in the case of officers who, on or before ¿September 30, 1996 *September 30, 1998*, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

§ 312c. Special pay: nuclear career annual incentive bonus

(a) * * *

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(d) For the purposes of this section, a "nuclear service year" is any fiscal year beginning before ¿October 1, 1996 *October 1, 1998*.

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CHAPTER 7—ALLOWANCES

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§ 402. Basic allowance for subsistence

(a) * * *

(b)*(1)* An enlisted member is entitled to the basic allowance for subsistence on a daily basis, of one of the following types—

¿(1) *(A)* when rations in kind are not available;

¿(2) *(B)* when permission to mess separately is granted; and

¿(3) *(C)* when assigned to duty under emergency conditions where no messing facilities of the United States are available.

(2) The allowance to an enlisted member, when authorized, may be paid in advance for a period of not more than three months. An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from his designated post of duty other than field duty or sea duty. The allowance for an enlisted member who is authorized to receive the basic allowance for subsistence under this subsection is at the rate prescribed in accordance with section 1009 of this title or as otherwise prescribed by law.

(3) Unless he is entitled to basic pay under chapter 3 of this title, an enlisted member of a reserve component of a uniformed service, or of the National Guard, is entitled, in the discretion of the Secretary concerned, to rations in kind, or a part thereof, when the instruction or duty periods, described in section 206(a) of this title, total at least eight hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

(4) In the case of members of the Army, Navy, Air Force, or Marine Corps who, when present at their permanent duty station, reside without dependents in Government quarters, the Secretary concerned may not provide a basic allowance for subsistence to more than 12 percent of such members under the jurisdiction of the Secretary concerned. The Secretary concerned may exceed such percent-

age during a fiscal year if the Secretary determines that compliance would increase costs to the Government, would impose financial hardships on members otherwise entitled to a basic allowance for subsistence, or would reduce the quality of life for such members. This paragraph shall not apply to members described in the first sentence when the members are not residing at their permanent duty station. The percentage limitation specified in this paragraph shall be achieved as soon as possible after the date of the enactment of this paragraph, but in no case later than September 30, 1996.

* * * * * * *

(e)(1) The President may prescribe regulations for the administration of this section, including definitions of the terms "field duty" and "sea duty" for the purposes of ¿the third sentence of subsection (b) *subsection (b)(2).*

(2) For purposes of ¿subsection (b) *subsection (b)(2),* a member shall not be considered to be performing travel under orders away from his designated post of duty if such member—

(A) is an enlisted member serving his first tour of active duty;

(B) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

(C) is not actually traveling between stations pursuant to orders directing a change of station.

§ 403. Basic allowance for quarters

(a) * * *

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(c)(1) * * *

(2) A member of a uniformed service without dependents who is in a pay grade below pay grade ¿E–7 *E–6* is not entitled to a basic allowance for quarters while he is on sea duty. A member of a uniformed service without dependents who is in a pay grade above ¿E–6 *E–5* who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting.

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§ 403a. Variable housing allowance

(a) * * *

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(c)¿(1) The monthly amount of a variable housing allowance under this section for a member of a uniformed service with respect to an area is the difference between (A) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade and with the same dependency status as that member, and (B) 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade and with the same dependency status as that member. *(1) The monthly amount of a variable housing*

allowance under this section for a member of a uniformed service with respect to an area is equal to the greater of the following:

(A) An amount equal to the difference between—

(i) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade and with the same dependency status as that member; and

(ii) 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade and with the same dependency status as that member.

(B) An amount determined by the Secretary of Defense as the minimum necessary to meet the cost of adequate housing in that area, as determined by the Secretary, for all residents in that area with an appropriate income level selected by the Secretary.

(2) The rates of variable housing allowance shall be reduced as necessary to comply with subsection (d).

(3) The effective date of any adjustment in rates of variable housing allowance because of a redetermination of median monthly costs of housing under ¿this subsection *paragraph (1)(A) or minimum levels of variable housing allowances under paragraph (1)(B)* shall be the same as the effective date of the next increase after such redetermination in the basic allowances for quarters. *However, on and after January 1, 1996, the monthly amount of a variable housing allowance under this section for a member of a uniformed service with respect to an area may not be reduced so long as the member retains uninterrupted eligibility to receive a variable housing allowance within that area and the member's certified housing costs are not reduced, as indicated by certifications provided by the member under subsection (b)(4).*

* * * * * * *

(5) Any reduction required under paragraph (2) and any determination of median monthly costs of housing *or minimum levels of variable housing allowances* under this subsection shall be made under regulations prescribed under subsection (e).

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(d)(1) * * *

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(3) In making a determination under paragraph (1) for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the variable housing allowance shall be adjusted to reflect changes during the year for which the determination is made in the number, grade distribution, and dependency status of members of the uniformed services entitled to variable housing allowance from the number of such members during the preceding fiscal year. *In addition, the total amount determined under paragraph (1) shall be adjusted to ensure that sufficient amounts are available to allow payment of any additional variable housing allowance necessary as a result of paragraph (1)(B) and the requirements of the second sentence of paragraph (3).* Adjustments under this paragraph shall be

made in accordance with regulations prescribed under subsection (e).

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§ 406. Travel and transportation allowances: dependents; baggage and household effects

(a) * * *

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(h)(1) If the Secretary concerned determines that it is in the best interests of a member described in paragraph (2) or the member's dependents and the United States, the Secretary may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of the member's dependents, baggage, and household effects—

(A) authorize the movement of the member's dependents, baggage, and household effects at the station to an appropriate location in the United States or its possessions or, if the dependents are foreign nationals, to the country of the dependents' origin and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, plus a per diem, as authorized under subsection (a) or (b); and

(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned or leased by the member (or a dependent of the member) and is for his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10.

If the member's baggage and household effects are in nontemporary storage under subsection (d), the Secretary concerned may authorize their movement to the location concerned and prescribe transportation in kind or reimbursement therefor, as authorized under subsection (b). For the purposes of this section, a member's unmarried child for whom the member received transportation in kind to his station outside the United States or in Hawaii or Alaska, reimbursement therefor, or a monetary allowance in place thereof, and ¿who became 21 years of age *who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member* while the member was serving at that station, shall *still* be considered as a dependent of the member.

* * * * * * *

¿(i) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report at the end of each fiscal year stating—

¿(1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents under subsection (a) or (h); and

¿(2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive such allowances or transportation.

¿(j) *(i)* A member traveling under orders who is relieved from a duty station is entitled to transportation for his dependents, baggage, and household effects, plus a per diem for the member's dependents, regardless of the time the dependents, baggage, or household effects arrive at their destination. Appropriations of the Department of Defense available for travel or transportation that are current when the member is relieved may be used to pay for the transportation.

¿(k) *(j)*(1) Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces under subsection (b) are available to pay a monetary allowance to a member when the member participates in a program in which baggage and household effects of the member are transported by a privately owned or rental vehicle or in which a member provides all or a part of the labor in connection with the transportation of the baggage and household effects of the member (including packing, crating, and loading) under regulations of the Secretary of the military department concerned. The allowance is not limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. However, the amount of the allowance shall provide a savings to the United States when the total cost of the transportation is compared with the cost that would be incurred under subsection (b).

* * * * * * *

¿(l) *(k)* Under uniform regulations prescribed by the Secretaries concerned, a member with dependents who is ordered to make an overseas permanent change of station and who, in anticipation of his dependents accompanying him overseas, ships baggage and household effects to that overseas station, may be authorized a return shipment of the baggage and household effects if, after the shipment, the member's dependents are unable to accompany him overseas and the Secretary concerned determines that such inability was unexpected and uncontrollable.

¿(m) *(l)* For the purposes of this section, the residence of a dependent of a member who is a student not living with the member while at school shall be considered to be the permanent duty station of the member or the designated residence of dependents of the member if the member's dependents are not authorized to reside with the member.

¿(n) *(m)* No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.

* * * * * * *

§ 407. Travel and transportation allowances: dislocation allowance

(a) Except as provided in subsections (b), (c), and (d) and under regulations prescribed by the Secretary concerned, a member of a uniformed service is entitled to a dislocation allowance equal to the basic allowance for quarters for two months as provided for the member's pay grade and dependency status in section 403 of this title if—

(1) * * *

* * * * * * *

(3) the member's dependents actually move from their place of residence under circumstances described in section 406a of this title; ¿or

(4) the member is without dependents and—

(A) actually moves to a new permanent station where not assigned to quarters of the United States; or

(B) actually moves from a place of residence under circumstances described in section 406a of this title¿. *; or*

(5) the member's dependents actually make an authorized move in connection with the member's directed order to move as a result of the closure or realignment of a military installation.

If a dislocation allowance is paid under ¿clause (3) or (4)(B) *paragraph (3) or (4)(B),* the member is not entitled to a dislocation allowance under ¿clause (1) *paragraph (1) or (5).*

(b) Under regulations prescribed by the Secretary concerned, whenever a member is entitled to a dislocation allowance under ¿subsection (a)(3) or (a)(4)(B) *paragraph (3) or (4)(B) of subsection (a),* the member is also entitled to a second dislocation allowance equal to the basic allowance for quarters for two months as provided for a member's pay grade and dependency status in section 403 of this title if, subsequent to the member or member's dependents actually moving from their place of residence under circumstances described in section 406a of this title, the member or member's dependents complete that move to a new location and then actually move from that new location to another location also under circumstances described in section 406a of this title. If a second dislocation allowance is paid under this subsection, the member is not entitled to a dislocation allowance under ¿subsection (a)(1) *paragraph (1) or (5) of subsection (a)* in connection with those moves.

* * * * * * *

§ 427. Family separation allowance

(a) * * *

(b) ADDITIONAL SEPARATION ALLOWANCE.—(1) * * *

* * * * * * *

(4) A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under this subsection *unless such entitlement is based on paragraph (1)(B).* The Secretary concerned may waive the preceding sentence

in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

* * * * * * *

CHAPTER 10—PAYMENTS TO MISSING PERSONS

Sec.
551. Definitions.
552. Pay and allowances: continuance while in a missing status; limitations.
553. Allotments: continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.

* * * * * * *

¿555. Secretarial review.

* * * * * * *

§ 552. Pay and allowances: continuance while in a missing status; limitations

(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

(1) * * *

(2) for the period, not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay. Notwithstanding section 1523 of title 10 or any other provision of law, the promotion of a member while he is in a missing status is fully effective ¿for all purposes, even though the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made. *for all purposes.*

(b) The expiration of a member's term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a). Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) ends on the date—

(1) the Secretary concerned receives evidence that the member is dead; or

¿(2) that his death is prescribed or determined under section 555 of this title.

(2) that his death is determined under chapter 76 title 10.

* * * * * * *

(e) A member in a missing status who is continued in that status under ¿section 555 of this title *chapter 76 of title 10* is entitled to be credited with pay and allowances under subsection (a).

§ 553. Allotments: continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) * * *

* * * * * * *

(f) When the Secretary concerned *under chapter 76 of title 10* officially reports that a member in a missing status is alive, the payments of allotments authorized by subsections (a)–(d) may, subject to section 552 of this title, be made until the date ¿the Secretary concerned receives evidence *a board convened under chapter 76 of title 10 reports* that the member is dead or has returned to the controllable jurisdiction of the department concerned.

(g) A member in a missing status who is continued in that status under ¿section 555 of this title *chapter 76 of title 10* is entitled to have the payments of allotments authorized by subsections (a)–(d) continued, increased, or initiated.

* * * * * * *

¿§ 555. Secretarial review

¿(a) When a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

¿(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

¿(2) make a finding of death.

¿(b) When a finding of death is made under subsection (a), it shall include the date death is presumed to have occurred for the purpose of—

¿(1) ending the crediting of pay and allowances;

¿(2) settlement of accounts; and

¿(3) payment of death gratuities.

That date is—

¿(A) the day after the day on which the 12-month period in a missing status ends; or

¿(B) if the missing status has been continued under subsection (a), the day determined by the Secretary concerned, or his designee.

¿(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

§ 556. Secretarial determinations

(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—

¿(1) death or finding of death;

¿(2) *(1)* the fact of dependency under this chapter;

¿(3) *(2)* the fact of dependency for the purpose of paying six months' death gratuities authorized by law; *and*

¿(4) *(3)* the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency¿; .

¿(5) any other status covered by this chapter;

¿(6) an essential date, including one on which evidence or information is received by the Secretary concerned; and

¿(7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

¿(b) When the Secretary concerned receives information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

¿(c) *(b)* The Secretary concerned, or his designee, may determine the entitlement of a member to pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

¿(d) *(c)* The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

¿(e) *(d)* When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be recredited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

¿(f) *(e)* Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected

from the allottee or charged against the pay of the deceased member.

¿(g) *(f)* The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

¿(h) *(g)* For the sole purpose of determining ¿status *pay* under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. ¿Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

§ 557. Settlement of accounts

(a) The Secretary concerned, or his designee, may settle the account of—

(1) a member of a uniformed service for whose account payments have been made under sections 552¿, 553, and 555 *and 553* of this title; and

* * * * * * *

§ 559. Benefits for members held as captives

(a) * * *

(b)(1) * * *

* * * * * * *

(4) Any interest accruing under this subsection on—

(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

(B) any amount referred to in ¿section 556(f) *section 556(e)* of this title shall be deemed to be part of such amount for purposes of such section.

* * * * * * *

CHAPTER 15—PROHIBITIONS AND PENALTIES

Sec.
802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs.
803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls.
¿804. Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge.

* * * * * * *

¿§ 804. Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge

¿Pay and allowances do not accrue to an enlisted member of the Army or the Air Force who is in confinement under sentence of dis-

honorable discharge, while the execution of the sentence to discharge is suspended.

* * * * * * *

Chapter 19—Administration

* * * * * * *

§ 1008. Presidential recommendations concerning adjustments and changes in pay and allowances

¿(a) The President shall direct an annual review of the adequacy of the pays and allowances authorized by this title for members of the uniformed services. Upon completion of this review, but not later than March 31 of each year, the President shall submit to Congress a detailed report summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances authorized by this title.

(a) Not later than March 31 of each year, the President shall submit to Congress such recommendations (if any) as the President considers appropriate for adjustments in the rates of pay and allowances authorized by this title for members of the uniformed services.

* * * * * * *

§ 1012. Disbursement and accounting: pay of enlisted members of the National Guard

Amounts appropriated for the pay, under subsections (a), (b), and (d) of section 206, section 301(f), ¿the last sentence of section 402(b) *section 402(b)(3)*, and section 1002 of this title, of enlisted members of the Army National Guard of the United States or the Air National Guard of the United States for attending regular periods of duty and instruction shall be disbursed and accounted for by the ¿Secretary concerned *Secretary of Defense*. All such disbursements shall be made for 3-month periods for units of the Army National Guard or Air National Guard under regulations prescribed by the ¿Secretary concerned *Secretary of Defense*, and on pay rolls prepared and authenticated as prescribed in those regulations.

* * * * * * *

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1984

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TITLE X—MILITARY PERSONNEL MATTERS

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PART B—RESERVE COMPONENT MANAGEMENT

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COMPUTATION OF YEARS OF SERVICE FOR MANDATORY TRANSFER OF CERTAIN RESERVISTS TO THE RETIRED RESERVE

Sec. 1016. (a) * * *

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(d) The amendments made by this section shall be effective only for the period beginning on October 1, 1983, and ending on September 30 ¿1995. *1996.*

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TITLE XII—GENERAL PROVISIONS

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PART D—MISCELLANEOUS

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PUBLIC HEALTH SERVICE HOSPITALS

Sec. 1252. (a) * * *

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¿(d) The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall submit annually to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a written report on the results of the studies and projects carried out under this section. The first such report shall be submitted not later than one year after the date of the enactment of this section. The last such report shall be submitted not later than one year after the completion of all such studies and projects.

* * * * * * *

¿(f) LIMITATION OF EXPENDITURES.—The total amount of expenditures by the Secretary of Defense to carry out this section and section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c), may not exceed $154,000,000 for fiscal year 1991.

(f) LIMITATION ON EXPENDITURES.—The total amount of expenditures by the Secretary of Defense to carry out this section and section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c), for fiscal year 1996 may not exceed $300,000,000, adjusted by the Secretary to reflect the inflation factor used by the Department of Defense for such year.

(2) During fiscal year 1996, the number of covered beneficiaries under chapter 55 of title 10, United States Code (including covered beneficiaries described in section 1086(d)(1) of such title), who are enrolled in managed care plans offered by facilities described in subsection (a) and designated under subsection (c) may not exceed the number of such covered beneficiaries so enrolled as of September 30, 1995.

* * * * * * *

SECTION 613 OF THE NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

¿SEC. 613. SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE.

¿(a) IN GENERAL.—(1) An officer of a reserve component of the Armed Forces described in paragraph (2) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

¿(2) An officer referred to in paragraph (1) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

¿(3) Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

¿(b) REFUND REQUIREMENT.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

¿(c) INAPPLICABILITY OF DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person receiving such special pay from the debt arising under the agreement.

¿(d) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after September 30, 1996.

¿(e) PURPOSE OF PROGRAM.—The authority provided under this section shall be used only for the purpose of establishing and conducting a pilot test program to determine the effect that the program provided for in this section has on the retention of officers who are qualified in specialties designated by regulation as critically short wartime specialties.

¿(f) REGULATIONS.—(1) This section shall be administered under regulations prescribed by the Secretary concerned and approved by the Secretary of Defense.

¿(2) As used in paragraph (1), the term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

¿(g) LIMITATIONS ON OBLIGATIONS.—The total amount of payments made during fiscal year 1989 as the result of agreements entered into under this section may not exceed $4,000,000.

¿(h) REPORT.—(1) Not later than September 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the manner in which the pilot test program provided for in this section is to be structured, including the minimum periods of service to be required for various levels of special pay under this section.

¿(2) Not later than February 1, 1990, the Secretary also shall submit to such committees an evaluation of the effectiveness of the program and recommendations for its continuation or modification.

¿(i) EFFECTIVE DATE.—The authority to enter into agreements under this section shall take effect 30 days after the date on which the committees referred to in subsection (h)(1) receive the report required by such subsection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE III—OPERATION AND MAINTENANCE

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PART E—MISCELLANEOUS

* * * * * * *

¿SEC. 352. ARMY RELIABILITY CENTERED-INSPECT AND REPAIR ONLY AS NECESSARY PROGRAM AT ANNISTON ARMY DEPOT.

¿The Secretary of the Army may operate and maintain an Army Reliability Centered-Inspect and Repair Only as Necessary Program at Anniston Army Depot in Anniston, Alabama.

* * * * * * *

¿SEC. 355. STAFF OF THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT.

¿(a) REQUIREMENT FOR INCREASED STAFF.—The Secretary of Defense shall increase the size of the permanent staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in accordance with this section. To achieve such increase, the Secretary may not reduce the size of the permanent staff authorized for the Under Secretary of Defense for Policy.

¿(b) SIZE OF STAFF.—On and after May 1, 1991, the number of employees of the Department of Defense assigned or detailed to duty to assist the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in the performance of the functions of the Assistant Secretary may not be less than the equivalent of 77 full-time employees.

¿(c) NUMBER OF SENIOR LEVEL EMPLOYEES.—Nine of the employee positions designated for the staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall be senior level employees who are recognized by rank for their managerial and supervisory duties.

¿(d) INCREASE IN TOTAL NUMBER OF DEPARTMENT OF DEFENSE EMPLOYEES NOT AUTHORIZED.—This section does not authorize an

increase in the number of civilian employees that may be employed by the Department of Defense.

¿(e) ASSESSMENT OF STAFF NEEDS.—The Secretary of Defense shall provide for an assessment, by an organization outside the Department of Defense, of the staff requirements of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. The Secretary shall submit the results of that assessment to the Congress not later than 180 days after the date of the enactment of this Act, together with such comments and recommendations as the Secretary considers appropriate.

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TITLE VII—HEALTH CARE PROVISIONS

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PART B—HEALTH CARE MANAGEMENT

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SEC. 718. UNIFORMED SERVICES TREATMENT FACILITIES.

(a) * * *

* * * * * * *

(c) MANAGED-CARE DELIVERY AND REIMBURSEMENT MODEL.—

(1) TIME FOR OPERATION.—Not later than the date of the enactment of this Act, the Secretary of Defense shall begin operation of a managed-care delivery and reimbursement model that will continue to utilize the Uniformed Services Treatment Facilities in the military health services system. ¿A participation agreement *Except as provided in paragraph (4), a participation agreement* negotiated between a Uniformed Services Treatment Facility and the Secretary of Defense under this subsection shall not be subject to the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)).

* * * * * * *

(4) APPLICATION OF FEDERAL ACQUISITION REGULATION.—On and after the date of the enactment of this paragraph, Uniformed Services Treatment Facilities and any participation agreement between Uniformed Services Treatment Facilities and the Secretary of Defense shall be subject to the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) notwithstanding any provision to the contrary in such a participation agreement. The requirements regarding competition in the Federal Acquisition Regulation shall apply with regard to the negotiation of any new participation agreement between the Uniformed Services Treatment Facilities and the Secretary of Defense under this subsection or any other provision of law.

(5) PLAN FOR INTEGRATING FACILITIES.—(A) Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a plan under which Uniformed Services Treatment Facilities, upon the termination of their status as such facilities and the expiration of participation agreements entered into under

this section, may be included in the exclusive health care provider networks established by the Secretary for the geographic regions in which the facilities are located. The Secretary shall address in the plan the feasibility of implementing the managed care plan of the Uniformed Services Treatment Facilities, known as Option II, on a mandatory basis for all USTF Medicare-eligible beneficiaries and the potential cost savings to the Military Health Care Program that could be achieved under such option.

(B) The plan developed under this paragraph shall be consistent with the requirements specified in paragraph (4). If the plan is not submitted to Congress by the expiration date of the participation agreements entered into under this section, the participation agreements shall remain in effect, at the option of the Uniformed Services Treatment Facilities, until the end of the 180-day period beginning on the date the plan is finally submitted.

(C) For purposes of this paragraph, the term "USTF Medicare-eligible beneficiaries" means covered beneficiaries under chapter 55 of title 10, United States Code, who are enrolled in a managed health plan offered by the Uniformed Services Treatment Facilities and entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

¿(4) *(6)* DEFINITION.—For purposes of this subsection, the term "Uniformed Services Treatment Facility" means a facility described in section 911(a) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(a)).

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DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1991".

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TITLE XXIX—DEFENSE BASE CLOSURES AND REALIGNMENTS

PART A—DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

SEC. 2901. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This part may be cited as the "Defense Base Closure and Realignment Act of 1990".

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SEC. 2905. IMPLEMENTATION.

(a) * * *

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) * * *

* * * * * * *

(8)¿(A) Subject to subparagraph (C), the Secretary may contract with local governments for the provision of police services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part if the Secretary determines that the provision of such services under such contracts is in the best interests of the Department of Defense. *(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part if the Secretary determines that the provision of such services under such an agreement is in the best interests of the Department of Defense.*

* * * * * * *

(f) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.—(1) Subject to paragraph (2), the Secretary may enter into an agreement to transfer by deed real property or facilities located at an installation closed or to be closed under this part with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for transfer under this paragraph if the property is identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation.

(2) A transfer of real property or facilities may be made under paragraph (1) only if—

(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

(B) the recipient of the property or facilities agrees to pay to the Secretary the difference between the fair market values if the fair market value of the housing units is lower than the fair market value of the property or facilities to be transferred.

(3) Notwithstanding section 2906(a)(2), the Secretary shall deposit funds received under paragraph (2)(B) in the Department of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

(4) The Secretary shall submit to the appropriate committees of Congress a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 30-day period beginning on the date the appropriate committees of Congress receive the report regarding the agreement.

(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by subsection as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2906. ACCOUNT.

(a) IN GENERAL.—(1) * * *

(2) There shall be deposited into the Account—

(A) * * *

* * * * * * *

(C) except as provided in subsection (d), proceeds received from the ¿transfer or disposal *lease, transfer, or disposal* of any property at a military installation closed or realigned under this part; and

(D) proceeds received after September 30, 1995, from the ¿transfer or disposal *lease, transfer, or disposal* of any property at a military installation closed or realigned under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

* * * * * * *

SECTION 18 OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT

SEC. 18. PROCUREMENT NOTICE.

(a)(1) Except as provided in subsection (c)—

(A) * * *

(B) an executive agency intending to solicit bids or proposals for a contract for property or services *for a price expected to exceed $10,000 but not to exceed $25,000* shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in ¿subsection (f)—

¿(i) in the case of an executive agency other than the Department of Defense, if a contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

¿(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and *subsection (b); and*

* * * * * * *

¿(4) An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under paragraph (1)(B) shall ensure that contracting officers consider each responsive offer timely received from an offeror.

¿(5) *(4)* An executive agency shall establish a deadline for the submission of all bids or proposals in response to a solicitation with respect to which no such deadline is provided by statute. Each deadline for the submission of offers shall afford potential offerors a reasonable opportunity to respond.

¿(6) *(5)* The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (3) for the submission of bids or proposals for the procurement of commercial items.

* * * * * * *

SECTION 21 OF THE ARMS EXPORT CONTROL ACT

SEC. 21. SALES FROM STOCKS.—(a) * * *

* * * * * * *

(e)(1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 22 of this Act shall include appropriate charges for—

(A) administrative services, calculated on an average percentage basis to recover the full estimated costs (excluding a pro rata share of fixed base operations costs) of administration of sales made under this Act to all purchasers of such articles and services as specified in section 43(b) and section 43(c) of this Act; *and*

¿(B) a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment (except for equipment wholly paid for either from funds transferred under section 503(a)(3) of the Foreign Assistance Act of 1961 or from funds made available on a nonrepayable basis under section 23 of this Act); and

¿(C) *(B)* the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.

¿(2) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, standardization with the Armed Forces of Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries, or foreign procurement in the United States under coproduction arrangements.

¿(3) *(2)*(A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

(i) * * *

* * * * * * *

TITLE 31, UNITED STATES CODE

* * * * * * *

SUBTITLE III—FINANCIAL MANAGEMENT

* * * * * * *

CHAPTER 33—DEPOSITING, KEEPING, AND PAYING MONEY

* * * * * * *

SUBCHAPTER II—PAYMENTS

§ 3321. Disbursing authority in the executive branch

(a) * * *

* * * * * * *

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

(1) United States Marshal's Office.

¿(2) The Department of Defense (except for disbursements for departmental pay and expenses in the District of Columbia).

(2) The Department of Defense.

(3) The Coast Guard (when not operating as a service in the Navy).

* * * * * * *

§ 3325. Vouchers

(a) * * *

¿(b) Subsection (a) of this section does not apply to disbursements of a military department of the Department of Defense, except for disbursements for departmental pay and expenses in the District of Columbia.

(b) In addition to officers and employees referred to in subsection (a)(1)(B) of this section as having authorization to certify vouchers, the Secretary of Defense and the Secretary of Transportation (with respect to the Coast Guard when it is not operating as a service in the Navy) may authorize, in writing, members of the armed forces under their jurisdiction to certify vouchers.

* * * * * * *

CHAPTER 35—ACCOUNTING AND COLLECTION

* * * * * * *

SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

* * * * * * *

§ 3527. General authority to relieve accountable officials and agents from liability

(a) * * *

(b)(1) The Comptroller General shall relieve a disbursing official of the ¿armed forces *Department of Defense or the Coast Guard* responsible for the physical loss or deficiency of public money, vouchers, or records, or shall authorize reimbursement, from an appropriation or fund available for reimbursement, of the amount of the loss or deficiency paid by or for the official as restitution, when—

(A) the Secretary of Defense or the ¿appropriate Secretary of the military department of the Department of Defense *Secretary of Transportation (with respect to the Coast Guard when it is not operating as a service in the Navy)* decides that the of-

ficial was carrying out official duties when the loss or deficiency occurred;

* * * * * * *

§ 3528. Responsibilities and relief from liability of certifying officials

(a) * * *

* * * * * * *

¿(d) This section does not apply to disbursements of a military department of the Department of Defense, except disbursements for departmental pay and expenses in the District of Columbia.

* * * * * * *

SUBTITLE VI—MISCELLANEOUS

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CHAPTER 91—GOVERNMENT CORPORATIONS

* * * * * * *

§ 9101. Definitions

In this chapter—

(1) * * *

* * * * * * *

(3) "wholly owned Government corporation" means—

(A) * * *

* * * * * * *

(P) the Panama Canal Commission.

* * * * * * *

SECTION 409 OF THE ACT OF NOVEMBER 19, 1969

AN ACT To authorize appropriations during the fiscal year 1970 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and research, development, test, and evaluation for the Armed Forces, and to authorize the construction of test facilities as Kwajalein Missile Range, and to prescribe the authorized personnel strength of the Selected Reserve of each reserve component of the Armed Forces, and for other purposes

SEC. 409. ¿(a) The Secretary of Defense shall submit an annual report to Congress on or before January 31 setting forth the amounts spent during the preceding year for research, development, test, and evaluation of all lethal and nonlethal chemical and biological agents. The Secretary shall include in each report a full explanation of each expenditure, including the purpose and the necessity therefor. The report shall include a full accounting of all experiments and studies conducted by the Department of Defense in the preceding year, whether directly or under contract, which involve the use of human subjects for the testing of chemical or biological agents.

(b) None of the funds authorized to be appropriated by this Act or any other Act may be used for the transportation of any lethal chemical or any biological warfare agent to or from any military installation in the United States, the open air testing of any such agent within the United States, or the disposal of any such agent within the United States until the following procedures have been implemented:

(1) the Secretary of Defense (hereafter referred to in this section as the "Secretary") has determined that the transportation or testing proposed to be made is necessary in the interests of national security;

(2) the Secretary has brought the particulars of the proposed transportation or testing to the attention of the Secretary of Health, Education, and Welfare, who in turn may direct the Surgeon General of the Public Health Service and other qualified persons to review such particulars with respect to any hazards to public health and safety which such transportation, testing, or disposal may pose and to recommend what precautionary measures are necessary to protect the public health and safety; *and*

(3) the Secretary has implemented any precautionary measures recommended in accordance with paragraph (2) above (including where practicable, the detoxification of any such agent, if such agent is to be transported to or from a military installation for disposal): *Provided, however,* That in the event the Secretary finds the recommendation submitted by the Surgeon General would have the effect of preventing the proposed transportation or testing, the President may determine that overriding considerations of national security require such transportation, testing, or disposal be conducted. Any transportation or testing conducted pursuant to such a Presidential determination shall be carried out in the safest practicable manner, and the President shall report his determination and an explanation thereof to the President of the Senate and the Speaker of the House of Representatives as far in advance as practicable¿; and .

¿(4) the Secretary has provided notification that the transportation, testing, or disposal will take place, except where a Presidential determination has been made: (A) to the President of the Senate and the Speaker of the House of Representatives at least 10 days before any such transportation will be commenced and at least 30 days before any such testing or disposal will be commenced; (B) to the Governor of any State through which such agents will be transported, such notification to be provided appropriately in advance of any such transportation.

(c)(1) None of the funds authorized to be appropriated by this Act or any other Act may be used for the future deployment, storage, or disposal at any place outside the United States of—

(A) any lethal chemical or any biological warfare agent, or

(B) any delivery system specfically designed to disseminate any such agent,

unless prior notice of such deployment, storage, or disposal has been given to the country exercising jurisdiction over such place.

¿In the case of any place outside the United States which is under the jurisdiction or control of the United States Government, no such action may be taken unless the Secretary gives prior notice of such action to the President of the Senate and the Speaker of the House of Representatives. As used in this paragraph, the term "United States" means the several States and the District of Columbia.

* * * * * * *

SECTION 1634 OF THE DEPARTMENT OF DEFENSE AUTHORIZATION, 1985

¿NAVAL NUCLEAR PROPULSION PROGRAM

¿SEC. 1634. The provisions of Executive Order Numbered 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program, shall remain in force until changed by law.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

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TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) * * *

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congress that the proposed recipient is ¿committed to —

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

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DEFENSE AUTHORIZATION AMENDMENTS AND BASE CLOSURE AND REALIGNMENT ACT

* * * * * * *

TITLE II—CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

* * * * * * *

SEC. 204. IMPLEMENTATION.

(a) * * *

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) * * *

* * * * * * *

(8)¿(A) Subject to subparagraph (C), the Secretary may contract with local governments for the provision of police services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this title if the Secretary determines that the provision of such services under such contracts is in the best interests of the Department of Defense. *(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this title if the Secretary determines that the provision of such services under such an agreement is in the best interests of the Department of Defense.*

* * * * * * *

(e) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.—(1) Subject to paragraph (2), the Secretary may enter into an agreement to transfer by deed real property or facilities located at an installation closed or to be closed under this title with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for transfer under this paragraph if the property is identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation.

(2) A transfer of real property or facilities may be made under paragraph (1) only if—

(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

(B) the recipient of the property or facilities agrees to pay to the Secretary the difference between the fair market values if the fair market value of the housing units is lower than the fair market value of the property or facilities to be transferred.

(3) Notwithstanding section 207(a)(7), the Secretary shall deposit funds received under paragraph (2)(B) in the Department of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

(4) The Secretary shall submit to the appropriate committees of Congress a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 21-day period beginning on the date the appropriate committees of Congress receive the report regarding the agreement.

(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by this subsection as the Secretary considers appropriate to protect the interests of the United States.

* * * * * * *

SEC. 207. FUNDING

(a) ACCOUNT.—(1) * * *

(2) There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account with respect to fiscal year 1990 and fiscal years beginning thereafter;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; ¿and

(C) proceeds described in section 204(b)(4)(A)¿. *; and*

(D) proceeds from leases of property under section 2667(f) of title 10, United States Code, at a military installation to be closed or realigned under this title.

* * * * * * *

(7) Proceeds received after September 30, 1995, from the ¿transfer or disposal *lease, transfer, or disposal* of any property at a military installation closed or realigned under this title shall be deposited directly into the Department of Defense Base Closure Account 1990 established by section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

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PANAMA CANAL ACT OF 1979

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TITLE I—ADMINISTRATION AND REGULATIONS

CHAPTER 1—PANAMA CANAL COMMISSION

¿ESTABLISHMENT OF COMMISSION

¿SEC. 1101. There is established in the executive branch of the United States Government an agency to be known as the Panama Canal Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall, under the general supervision of the Board established by section 1102 of this Act, be responsible for the maintenance and operation of the Panama Canal and the facilities and appurtenances related thereto. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

¿SUPERVISORY BOARD

¿SEC. 1102. (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the Republic of Panama. At least one of the members of the Board who are nationals of the United States shall be experienced and knowledgeable in the management or operation of an American-flag steamship line which has or had ships regularly transiting the Panama Canal, at least one other such member shall be experienced and knowledgeable in United States port operations or in the business of exporting or importing one of the regular commodities dependent on the Panama Canal as a transportation route, and at least one other such member shall be experienced and knowledgeable in labor matters in the United States Three members of the Board shall hold no other office in or be employed by the Government of the United States. Members of the Board who are nationals of the United States shall cast their votes as directed by the nationals of the United States shall cast their votes as directed by the Secretary of Defense or his designee.

ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE OF THE COMMISSION

SEC. 1101. (a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (hereinafter in this Act referred to as the "Commission") is established as a wholly owned government corporation (as that term is used in chapter 91 of title 31, United States Code) within the executive branch of the Government of the United States. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish branch offices in such other places as it deems necessary or appropriate for the conduct of its business. Within the meaning of the laws of the United States relating to venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and the eastern judicial district of Louisiana.

SUPERVISORY BOARD

SEC. 1102. (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members of the Board shall be nationals of the Republic of Panama. Three members of the Board who are nationals of the United States shall hold no other office in, and shall not be employed by, the Government of the

United States, and shall be chosen for the independent perspective they can bring to the Commission's affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or a designee of the Secretary of Defense.

(d)(1) In order to enhance the prestige of the Commission in the world shipping community and allow for the exchange of varied perspectives between the Board and distinguished international guests in the important deliberations of the Commission, the Government of the United States and the Republic of Panama may each invite to attend meetings of the Board, as a designated international advisor to the Board, one individual chosen for the independent perspective that individual can bring to the Commission's affairs, and who—

(A) is not a citizen of Panama;

(B) does not represent any user or customer of the Panama Canal, or any particular interest group or nation; and

(C) does not have any financial interest which could constitute an actual or apparent conflict with regard to the relationship of the individual with the Board of the Commission.

(2) Such designated international advisors may be compensated by the Commission in the same manner and under the same circumstances as apply under subsection (b) with regard to members of the Board. Such designated international advisors shall have no vote on matters pending before the Board.

GENERAL POWERS OF THE COMMISSION

SEC. 1102a. (a) The Commission, subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31, United States Code, popularly known as the Government Corporation Control Act—

(1) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(2) may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law;

(3) may sue and be sued in its corporate name, except that—

(A) its amenability to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 1401 of this Act, and otherwise by law;

(B) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5, United States Code, and section 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, 662), or as otherwise specifically authorized by the laws of the United States; and

(C) it is exempt from the payment of interest on claims and judgments;

(4) may enter into contracts, leases, agreements, or other transactions; and

(5) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall

be incurred, allowed, and paid, and may incur, allow, and pay them, subject to pertinent provisions of law generally applicable to Government corporations.

(b) The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

SPECIFIC POWERS OF COMMISSION

SEC. 1102b. (a) Subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31, United States Code, popularly known as the Government Corporation Control Act, the Commission may—

(1) manage, operate, and maintain the Panama Canal;

(2) construct or acquire, establish, maintain, and operate docks, wharves, piers, shoreline facilities, shops, yards, marine railways, salvage and towing facilities, fuel-handling facilities, motor transportation facilities, power systems, water systems, a telephone system, construction facilities, living quarters and other buildings, warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith, recreational facilities, and other activities, facilities, and appurtenances necessary and appropriate for the accomplishment of the purposes of this Act;

(3) use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government; and

(4) take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.

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CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

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DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

SEC. 1205. The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any ¿appropriation *fund from which the Commission has expended such amount.*

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CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

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PANAMA CANAL REVOLVING FUND

SEC. 1302.(a) * * *

* * * * * * *

(c)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts (other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 1305) and all other receipts of the Commission. Except as provided in section 1303 ¿and subject to paragraph (2) , no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

¿(2) No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriation Acts.

¿(3) (*2*) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year in excess of—

(A) * * *

* * * * * * *

¿(e) The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures.

(e) In accordance with section 9104 of title 31, United States Code, the Congress shall review the annual budget of the Commission.

* * * * * * *

EMERGENCY AUTHORITY

SEC. 1303. If authorizing legislation described in section 1302(c)(1) has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. ¿The authority of this section may not be used for administrative expenses. The authority of this section may be exercised only until authorizing legislation described in section 1302(c)(1) is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.

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Subchapter II—Accounting Policies and Audits

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¿AUDIT BY THE COMPTROLLER GENERAL OF THE UNITED STATES
AUDITS

SEC. 1313. (a) ¿Financial transactions *Subject to subsection (d), financial transactions* of the Commission shall be audited by the

Comptroller General of the United States (hereinafter in this Act referred to as the "Comptroller General") pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.). In conducting any audit pursuant to such Act, the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representative shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. An audit pursuant to such Act shall first be conducted with respect to the fiscal year in which this Act becomes effective.

(b) ¿The Comptroller General *Subject to subsection (d), the Comptroller General* shall, not later than six months after the end of each fiscal year, submit to the Congress a report of the audit conducted pursuant to subsection (a) of this section with respect to such fiscal year. Such report shall set forth the scope of the audit and shall include—

(1) * * *

* * * * * * *

(d) At the discretion of the Board provided for in section 1102, the Commission may hire independent auditors to perform, in lieu of the Comptroller General, the audit and reporting functions prescribed in subsections (a) and (b).

(e) In addition to auditing the financial statements of the Commission, the independent auditor shall, in accordance with standards for an examination of a financial forecast established by the American Institute of Certified Public Accountants, examine and report on the Commission's financial forecast that it will be in a position to meet its financial liabilities on December 31, 1999.

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Subchapter III—Interagency Accounts

INTERAGENCY SERVICES; REIMBURSEMENTS

SEC. 1321. (a) * * *

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(d) Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The ¿appropriations or funds of the Commission shall be available for such reimbursements on behalf of—

(1) employees of the Commission, and

(2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for

reimbursements on behalf of employees of such department or agency and their dependents.

* * * * * * *

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

SETTLEMENT OF CLAIMS GENERALLY

SEC. 1401. (a) * * *

* * * * * * *

(c) An award made to a claimant under this section shall be payable out of any moneys ¿appropriated for or made available to the Commission. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

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Subchapter II—Vessel Damage

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SETTLEMENT OF CLAIMS

SEC. 1415. The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subchapter. Such amounts may be paid only out of money ¿appropriated or allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

ACTIONS ON CLAIMS

SEC. 1416. A claimant for damages pursuant to section 1411(a) or 1412 of this Act who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this chapter and of applicable regulations issued pursuant to section 1801 of this Act relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subchapter may be paid out of money ¿appropriated or allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Com-

mission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission. Any action on a claim under this section shall be barred unless the action is brought within one year after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the clam, or within one year after the date of the enactment of the Panama Canal Amendments Act of 1985, whichever is later. Attorneys appointed by the Commission shall represent the Commission in any action arising under this subchapter.

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

¿PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

¿SEC. 1601. (a) The President is authorized, subject to the provisions of this chapter, to prescribe and from time to time change—

¿(1) the rules for the measurement of vessels for the Panama Canal; and

¿(2) the tolls that shall be levied for the use of the Canal.

¿(b) Such rules of measurement and tolls prevailing on the effective date of this Act shall continue in effect until changed as provided in this chapter.

PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

SEC. 1601. The Commission may, subject to the provisions of this Act, prescribe and from time to time change—

˜(1) the rules for the measurement of vessels for the Panama Canal; and

˜(2) the tolls that shall be levied for the use of the Panama Canal.

PROCEDURES

SEC. 1604. (a) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section ¿1601(a) *1601* of this Act. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of this Act, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

(1) * * *

* * * * * * *

¿(c) After the proceedings have been conducted pursuant to subsections (a) and (b) of this section, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President.

¿(d) Upon publication of the notice pursuant to subsection (c) of this section, the Commission shall forward a complete record of the proceedings, with the recommendation of the Commission, to the President for his consideration. The President may approve, disapprove, or modify any or all of the changes in the rules of measurement or rates of tolls recommended by the Commission.

¿(e) Rules of measurement or rates of tolls prescribed by the President pursuant to this chapter shall take effect on a date prescribed by the President which is not less than 30 days after the President publishes such rules or rates in the Federal Register.

(c) After the proceedings have been conducted pursuant to subsection (a) and (b) of this section, the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall, however, publish notice of such change in the Federal Register not less than 30 days before the effective date of the change.

¿(f) *(d)* Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

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TITLE 38, UNITED STATES CODE

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER I—GENERAL

Sec.
3701. Definitions.

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3708. Authority to buy down interest rates: pilot program.

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§ 3708. Authority to buy down interest rates: pilot program

(a) In order to enable the purchase of housing in areas where the supply of suitable military housing is inadequate, the Secretary may conduct a pilot program under which the Secretary may make periodic or lump sum assistance payments on behalf of an eligible veteran for the purpose of buying down the interest rate on a loan to that veteran that is guaranteed under this chapter for a purpose described in paragraph (1), (2), (3), (6), or (10) of section 3710(a).

(b) An individual is an eligible veteran for the purposes of this section if—

(1) the individual is a veteran, as defined in section 3701(b)(4) of this title, or is on active Guard and Reserve duty, as defined by section 101(d) of title 10;

(2) the individual submits an application for a loan guaranteed under this chapter within one year of an assignment of the individual to duty at a military installation in the United States designated by the Secretary of Defense as a housing shortage area;

(3) at the time the loan referred to in subsection (a) is made, the individual is an enlisted member, warrant officer, or an officer (other than a warrant officer) at a pay grade of O-3 or below;

(4) the individual has not previously used any of the individual's entitlement to housing loan benefits under this chapter; and

(5) the individual receives comprehensive prepurchase counseling from the Secretary (or the designee of the Secretary) before making application for a loan guaranteed under this chapter.

(c) Loans with respect to which the Secretary may exercise the buy down authority under subsection (a) shall—

(1) provide for a buy down period of not more than three years in duration;

(2) specify the maximum and likely amounts of increases in mortgage payments that the loans would require; and

(3) be subject to such other terms and conditions as the Secretary may prescribe by regulation.

(d) The Secretary shall promulgate underwriting standards for loans for which the interest rate assistance payments may be made under subsection (a). Such standards shall be based on the interest rate for the second year of the loan.

(e) The Secretary or lender shall provide comprehensive prepurchase counseling to eligible veterans explaining the features of interest rate buy downs under subsection (a), including a hypothetical payment schedule that displays the increases in monthly payments to the mortgagor over the first five years of the mortgage term. For the purposes of this subsection, the Secretary may assign personnel to military installations referred to in subsection (b)(2).

(f) There is authorized to be appropriated $3,000,000 annually to carry out this section.

(g) The Secretary may not guarantee a loan under this chapter after September 30, 1998, on which the Secretary is obligated to make payments under this section.

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ADDITIONAL VIEWS OF REP. HERBERT H. BATEMAN

Preserving the nation's submarine industrial base is a vital long-term national security objective. One cannot help but be sympathetic to the Navy's desire to maintain two shipyards capable of producing nuclear-powered warships, particularly submarines. This Member would support such a strategy if there were any prospect that we required more than one. No one, however, anticipates building enough submarines to support two or more nuclear-capable shipyards. The Navy's two nuclear-capable shipyard strategy is based upon flawed analyses, including the assumption that having two such shipyards will provide an important hedge against manmade or natural catastrophes that could shut down one of the two yards and that future maritime threats might require submarine production to be increased above the capacity of the New England shipyard, Electric Boat, which the Navy wants to be its exclusive submarine builder.

These assumptions ought to be rejected. Throughout the Cold War, when the growing threat from the Soviet submarine force was a matter of great concern to many of us in Congress, there were no instances of submarine construction being impeded by manmade or natural catastrophes. Shipyards are not federal buildings sitting mere feet from major streets and, consequently, are not vulnerable to car bombs. Any such terrorist act that did succeed in damaging one pier or drydock would be very unlikely to inflict similar damage to other areas of the yard in question. In fact, the threat of terrorism is greater to submarines already in the fleet and tied up at piers. More importantly, however, and of relevance also to the Navy's second assumption pertaining to surge capacity, any crisis or war that breaks out will be responded to or fought with the submarines in hand at that time. It takes five years for a shipyard currently constructing nuclear submarines to build one. It is estimated that it would take eight years for a yard that has been out of the submarine construction business to build even one submarine because of the loss of skilled workers and engineers. The Navy's policy is a multibillion dollar insurance premium that adds nothing to our security.

For these reasons the two yard strategy is fundamentally flawed. The economic arguments further demonstrate the questionable logic behind the Navy's analysis. Even the Navy concedes that significant savings would be achieved by consolidating submarine construction at Newport News Shipbuilding because of that yard's ability to spread overhead costs across several programs. All Newport News is asking for is the right to compete fairly and objectively for contracts to build the New Attack Submarine (NAS), the generation of ship expected to follow construction of the Seawolf-class boats. The Navy has argued that Electric Boat should be the sole builder of all nuclear-powered submarines, despite documented

cost savings of having Newport News do the work. Every analysis concludes that Newport News Shipbuilding is expected to be the lowest cost builder.

Central to the debate on whether to permit Newport News to compete for future nuclear submarine construction contracts are the measures needed to keep both submarine builders healthy during the current crucial transition period during which both shipyards are completing their backlogs of submarine work. The Navy strategy calls for construction of a third Seawolf-class submarine for the sole purpose of keeping Electric Boat healthy. Toward that end, it is ready to spend over $2.5 billion on construction of a submarine even the Navy concedes is not needed for military purposes. Military Procurement Subcommittee Chairman Hunter has attempted to reconcile competing interests by terminating work on that third Seawolf, providing other "bridge" funding to Electric Boat for modifications on the second Seawolf and providing funding to ensure Newport News Shipbuilding is involved in the design of the NAS. Additionally, the chairman's concerns about the conceptual viability of the presently proposed New Attack Submarine are reflected in his decision to push back construction on the first boat in that class until the year 2000, while having Electric Boat construct an experimental research and development platform in 1998, previously the date for construction of the first NAS.

As stated earlier, the chairman is to be commended for his efforts at working with the Navy as well as with both interested shipyards in fashioning a submarine construction strategy that will accomplish the two-yard objective. While this member shares the chairman's concerns about the NAS and wishes it to be the best submarine that we can afford, there are questions as to the practicality of his strategy. The NAS was conceptualized to be a lower cost albeit less capable platform than Seawolf. We need to explore technological innovations and facilitate the emergence of improved submarine designs, systems and components. There comes a time, though, when the country must proceed with the actual construction of a platform, taking into account the fact that improvements are typically incorporated into submarines under construction as well as existing hulls during the life of a particular class of ship. Delaying construction of the New Attack Submarine until after 1998 creates a risk that neither Electric Boat nor Newport News Shipbuilding will be in the position to build submarines without a significant delay while incurring the cost of reconstituting their design and construction capabilities, or else building additional Seawolfs.

It has been stated by some of the supporters in Congress of the New England shipyard that Newport News enjoys an unfair advantage in an open competition because it has been the Navy's sole source for aircraft carrier construction. This argument ignores the fact that Electric Boat has been the sole source for ballistic missile submarine construction throughout the Trident submarine program and that it was given contracts for Los Angeles-class attack submarines that it lost out on in open competition simply to keep it viable. In short, American taxpayers have already done their fair share to keep Electric Boat open despite the fact that another yard exists that can do the work as well and for less money.

Newport News Shipbuilding can build numerically more submarines than Electric Boat. History demonstrates it designs and builds them as well or better than the New England yard and all data demonstrate significant cost savings in building future submarines at Newport News. There is no requirement for a second nuclear-capable shipyard. It is my hope and desire that we build upon what the National Security Committee mark provides so that in the end we get the best next-generation submarine we can afford, built by the shipyard that wins a fair and honest competition. To allow the government to select which competitor is permitted to survive without regard for important factors like cost effectiveness is not the American way. Congress must act to assure that both Electric Boat and Newport Shipbuilding have the opportunity to compete for future submarine construction contracts. That is the American way.

HERBERT H. BATEMAN.

ADDITIONAL VIEWS OF ROBERT K. DORNAN

FY 1996 DEFENSE AUTHORIZATION BILL

This bill marks a very historic moment in our country's approach to maintaining national security. For the first time in four decades, a new majority in the House of Representatives is setting the priorities for spending by the Department of Defense. Because of the increasing pressures we face both here and abroad, this new approach to our nation's security could not have come at a better or more appropriate time.

The world is becoming much more complex in terms of security requirements. Situations in Somalia, Bosnia and Haiti have clearly demonstrated the dangers our military forces will face despite the apparent end of the Cold War with the former Soviet Union. Meanwhile, increased budgetary pressures, including a commitment to balance the federal budget by 2002, mean that the resources available to maintain an effective military capability will be very limited. Against this backdrop, the current administration has not only failed to clearly articulate a comprehensive foreign and national security policy for the future, but has under funded its own very questionable "Bottom Up Review" by as much as 150 billion dollars!

In response to these circumstances, the House National Security Committee has taken very bold and innovative measures designed to not only maintain but drastically improve our military capability for both now and the next century.

Highly motivated and qualified soldiers, sailors, airmen and Marines remain the foundation for an effective combat fighting force. In order to recruit, retain and reward such troops, the committee, led by my Personnel Subcommittee, took the following necessary steps. First, we placed a mandatory floor on military force structure in order to prevent the Administration from further cutting personnel levels below those recommended in the Bottom Up Review. We also authorized the Secretary of Defense funding for an additional 7,500 personnel that could be used directly to relieve pressure on certain portions of each military service being stressed by high operations tempo such as Air Force AWACS, Army military police, and Army Patriot missile units. In the area of compensation, we fully approved a military pay increase, the first requested by this administration in three years, and supported a range of other compensation initiatives over and above those requested including a 5.2 percent increase in the basic allowance for quarters (BAQ).

Another area that deserves and received more attention from the committee was training/readiness. Besides additional funds for property maintenance, base operations, ammunition, and other basic supplies, the Personnel Subcommittee increased the number of military technicians, a key to reserve component readiness, by

1,400 personnel above the level requested by the President. In order to pay for these combat readiness initiatives, the committee cut over 2 billion dollars in non-defense spending from this bill. While many of these "civil-military" programs may have great merit, we decided that the priority should be on military programs that directly contribute to combat readiness. The defense budget must be for defense.

Finally, the committee made a firm commitment to new technology by funding vital modernization programs which will ensure our technical edge over any adversary for the foreseeable future. Chief among these modernization initiatives was additional funding for ballistic missile defense (BMD) including full funding in FY 1996 for Navy lower and upper tier systems. By providing this additional funding, we will be able to build upon our previous investment in Aegis ships, radar and missiles and provide our allies, forward deployed forces, and even the U.S. with an effective missile defense by the turn of the century.

We also accelerated funding for armed reconnaissance helicopters for the Army, a requirement that was clearly demonstrated after the loss of an unarmed, underpowered, unstealthy OH–58 aircraft over North Korea earlier this year. The committee funded 20 additional OH–58D "Kiowa Warrior" aircraft to meet this requirement in the short term and fully endorsed the RAH–66 "Comanche" program to address this requirement in the long term.

The committee also made a clear commitment to address the lack of long range conventional bomber capability by authorizing funding for additional B–2 production and continued conventional enhancements to the B–1B aircraft. Such long range power projection systems will be vital to a future, credible U.S. military presence overseas.

This defense bill does not represent the total answer to our future national security requirements. It represents only the beginning. However, such a strong foundation is vital, especially without better guidance or vision from the present administration, if we are to ensure the national security of this great nation in the 21st century.

For those who might question why we need to continue to invest so much in defense, I would remind them, during this 50th anniversary of our victory in World War II, of the high price we pay in terms of human life when we are not properly prepared to quickly and decisively win at war. We must always remember that those who are most prepared to wage war are also those who are least likely to need to do so because of such preparedness. As one of our greatest battlefield commanders, Matt Ridgway, once commented: "What red-blooded American could oppose so shining a concept as victory? It would be like standing up for sin against virtue."

The House National Security Committee FY 1996 Defense Authorization Bill is a commitment to victory instead of defeat. Hopefully the Senate and appropriations committees will show the same commitment when considering this defense budget.

R.K. DORNAN.

ADDITIONAL VIEWS OF CONGRESSMAN CHET EDWARDS

I was pleased to support final passage of the fiscal year 1996 Defense Authorization Act. This measure, while not fully meeting the defense objectives I believe our nation should pursue, does attempt to reverse the trend of shrinking defense budgets. I am particularly pleased with the increased funding allocated to the procurement accounts to allow for an improvement in our modernization efforts. I especially applaud our committee's efforts in the area of improving the Quality-of-Life for our military personnel, which the Administration sought to make this top priority this year.

I applaud the work of our new chairman for this consistent efforts to maintain fairness throughout the hearing process. While the hearings were held in a compressed time frame, they did allow for an examination of some critical areas in shaping our national security posture. I am hopeful additional hearings will be held after work is finalized on the Defense Authorization Act, so that a more comprehensive long-term vision can be established to determine what our defense policy will be into the next century.

While the final budget figure is uncertain at this time, I am pleased that it appears a higher defense spending level can be anticipated for the new fiscal year. We need to allocate this funding increase in a wise and prudent manner, and I agree with many of the spending priorities established in this year's bill.

We must continue to emphasize our most important defense attribute, that being our first-rate personnel. It is through our people that our defense forces remain second to none. The recent Administration announcement about improved quality-of-life emphasis is certainly followed in this measure, by grating a payraise, improving barracks and family housing, and providing a portion of the funding needed for impact aid. Our military personnel cannot be distracted about their children's education, and by eliminating this funding our local communities will be negatively affected. The results will be harmful to the education provided to these children, and I maintain this will have a dramatic and negative impact our personnel's morale, readiness and desire to remain in the military. I am hopeful that the full allocation will be granted for impact aid, and I will continue working to achieve that goal.

There are some important areas which were not fully debated at the committee level, and have been deferred until the measure is considered by the full House. Important programs such as the Seawolf submarine and the B–2 Stealth bomber need a full and complete debate to allow the full House to decide which course we should follow with regard to these important and expensive systems. We need to carefully measure the military utility, the future costs of such systems, and the impact on the military industrial base before deciding the fate of these and other critical defense programs.

I will closely monitor the defense budget bottom line to determine what impact this funding level will have on programs which are important to addressing our modernization needs. We must carefully consider, should the budget figure drop below our current level, as to what programs are of a higher priority and meet our immediate or near-term defense posture.

In the area of missile defense, I remain concerned about the bill's renewed emphasis on national missile defense. While I do support a strong and vigorous missile defense plan, I do not want to see our current Theater Missile Defense (TMD) plan disrupted or shortchanged by this new funding decision. I will continue to work with my colleagues to ensure our decisions in this area will not be without focus and strong direction.

There is a need for further refinement of this defense bill, and I will be working throughout the process from the floor to the conference to ensure a success defense bill emerges. I do find the committee product to be more that a good first step to meeting the defense needs of the present, and hopefully addressing some of our short-term deficiencies in modernization. With the world still changing and the defense threats far from certain, we need to carefully and wisely craft a defense bill that allows for our military to meet these evolving threats to our nation and our allies.

I am pleased to commend the dedication, hard work and professionalism of the committee staff for all their assistance in drafting this important measure. I look forward to their continuing efforts as we further refine the committee's work in the coming months.

I look forward to containing work with my colleagues in finalizing a fiscal year 1996 Defense Authorization bill which meets our national security needs.

CHET EDWARDS.

DISSENTING VIEWS OF REPRESENTATIVES DELLUMS, SCHROEDER, EVANS, AND MEEHAN

We dissent from the recommendation of the Committee on National Security to report the bill, H.R. 1530, as amended, to the House with a recommendation for passage. We believe that the overall level of expenditures contained within the bill (although within the limits established by the House Budget Resolution) are higher than needed for an adequate defense posture. In addition, we disagree with the spending priorities established by the Committee and with numerous provisions of the bill that aggressively promote extreme agendas on important social issues.

We are especially troubled that the process of public deliberation on the bill has been so frustrated and that the Committee's well-developed and well-earned legacy of bipartisanship has been so tattered during the development of the bill. Efforts to achieve bipartisan consensus on the major national security issues of which the committee has jurisdiction has always constituted the singular, most distinguishing achievement of our committee. It has been reflected historically not only in the fine work of staff and committee collegiality, but in the willingness sincerely to solicit Administration and alternative views on the important issues facing the Committee. This has been especially true of Committee initiatives, such as the Goldwater/Nichols reorganization bill, military retirement reform and acquisition reform, to name a few.

The report of H.R. 1530 contains enormous and sweeping provisions that have not only been developed without the benefit or full consultation with the Administration and others, they have not been illuminated properly by the subcommittee and full committee hearing process. Whether in personnel matters, weapons procurement, research and development, foreign policy initiatives or acquisition reform, the failure to initiate full-fledged, even-handed inquiries into these matters constitutes, in our judgement, a real shortcoming in the legislative process. We hope that these shortcomings are a result of the learning process and will be remedied in the future.

It is our view that these procedural shortcomings have created an environment in which substantive programs are being initiated with significant potential adverse results.

For example, the committee report would embark upon an extraordinarily costly program to purchase new B–2 bombers at great expense and without justification. All of the testimony the Committee received by the Department of Defense and the services came to the conclusion that additional B–2s were unneeded, and that their purchase would crowd out other, higher priority programs (even if more money were to be made available than was contained in the President's request). This view was supported ultimately both by the independent bomber needs study called for by

the FY 1995 Defense Authorization Act and conducted by the highly respected Institute for Defense Analysis, as well as by an independent assessment by the Roles & Missions Commission that was established also by congressional initiative.

The bottom line is: We do not need more B–2s; the Secretary of Defense does not want more B–2s; and the uniformed, operational Air Force has higher priorities to which it would devote additional resources, as was testified to before our committee.

The inclusion of funding for additional B–2s is sufficient in itself to warrant rejection of the committee report. But other shortcomings exist.

The committee report recommends putting more resources towards our weapons inventory in order to fend off what some on the committee have claimed has been a "procurement holiday" that threatens modernization and future readiness. Dire forecasts of future shortages are made based on the fact that we have not made recent purchases of modern weapons. The claims ignore the fact that reductions in major systems procurement resulted from the ability to rely upon sustaining the inventory by absorbing excess equipment that resulted from downsizing the force.

In testimony before the Committee, Defense Secretary William Perry displayed in graphic terms the plans to resume procurements—when reliance on the absorption strategy would no longer be sufficient—in time to maintain inventory average-age goals. The replacement strategy would appropriately and with timeliness secure the modernization of the weapons inventory and guarantee future readiness. Further rushing to replace weapons that are fairly "young"—that is, acquired during the 1980's build-up—has the effect of "throwing away" useful service life, and thereby wasting taxpayer dollars.

Surely the acquisition program that warrants close monitoring by the committee; but it does not warrant a precipitous buy of major equipment. In fact, this "procurement holiday" scare reminds us of a previous claim of what ended up being a non-existent missile gap.

As to the Anti Ballistic Missile Treaty of 1972, the majority made several assurances that it was not their intent to now develop non-treaty compliant Theater Missile Defense or National Missile Defense systems, nor to cause a breakout from the Treaty through the Missile Defense Act rewrite. Yet, all attempts to have the Committee report rewrite conform to the ABM Treaty, or to limit development activities that would violate the Treaty, were successfully resisted by the majority. One might ask, why jeopardize START II by playing fast and loose with the ABM Treaty when it is the reduced warhead limits of START II that, it is argued, would make a National Missile Defense technically feasible.

In addition, the committee report would double the investment in national missile defense programs. There is no crucial, near-term threat that warrants such an increase in spending, much less the reckless disregard for the ABM Treaty that the language of the report displays.

These are just some highlights of the research, development and procurement activity that has soaked up the excessive resources dumped in the Committee's lap by the House-passed budget resolu-

tion and which will propel our acquisition program back to the future—creating reliance upon weapons programs developed to meet Cold War strategic plans that will not meet effectively the requirements of the future, and may, in fact, only serve to re-ignite those destabilizing competitions.

Part of the bill-payers for this acquisition splurge were vitally important environmental clean-up programs that the Departments of Energy and Defense are required by law or litigation to complete—and for which it is our obligation to provide them the funding. These clean-up and prevention efforts are the way of the future and the committee's hostility to their continuance and to fund suitably the programs that exist is shortsighted.

Part of the payment for the acquisition splurge also came from dual-use programs that are being used to position the industrial base to be able to support fully the emerging defense industrial challenges of the century to come. Such additional shortsightedness in cutting these funds in order to pay in part for lower priority Cold War-era weapons should be rejected by the House.

Not all of the problems with the report are money spending problems. The report would throw out of the service those personnel with the HIV–1 virus who are perfectly capable of serving their nation. The Army personnel chief has stated that current DoD regulations are perfectly capable of handling persons with non-world wide deployable status. Targeting those with HIV–1 status is unconscionable and was done without even the barest of committee inquiries into the issue.

Again without the benefit of hearing, the report would further close down a woman's constitutionally protected right to an abortion by denying her access to such medical procedures when she is dependent on military health care systems overseas.

Constricting the Cooperative Threat Reduction (so-called Nunn-Lugar) program—with its potential for so dramatically aiding in the elimination of weapons of mass destruction—is wrong and runs counter to the arguments offered by those in favor of a national missile defense program who argued that we must better defend our citizens from such weapons. Again, funds ($171 million) were squeezed from the program to finance projects and weapons systems of less effective value to the nation's security. Secretary Perry stated that this program was one of his highest priorities, and the House should surely revisit this issue.

Placing roadblocks in the path of our effective participation in United Nations peacekeeping, the bill not only challenges the President's rightful responsibilities as commander in chief, it directly and adversely affects our long-term national security interests by erecting these impediments to participation. Clearly this is a case in which the American people are way ahead of the committee in comprehending the enduring moral value, financial benefit and the advantage generated by having the United States participate fully in peacekeeping efforts to control the outbreak of war and violence. The report contains a major acquisition reform package, one which is adopted without one hearing prior to the Committee on National Security markup of the bill. We also are without the benefit of learning of the outcome of last year's significant reforms in acquisition, thereby running the risk that this program

will hinder last year's effort. In addition, passage of a second major package so quickly will reduce our ability to analyze which reforms worked well and which did not.

We are also concerned with the proposal in section 3133 to fund multipurpose reactor programs that will breach the firewall between nuclear-power and defense nuclear-weapons programs. This has major implications for U.S. non-proliferation efforts, prematurely anticipates the Secretary of Energy's decision-making process to identify the best source for tritium production and, again, was done without the benefit of subcommittee or committee hearings.

In the past two years, the committee reports of the defense authorization bill have put the United States on a path beyond Cold War thinking and began to move us towards a post-Cold War national security strategy.

We believe that this report reverses that course: It buys more weapons whose design, function and purposes are rooted in Cold War strategy and doctrine. It pushes away from an aggressive arms control strategy and potentially back towards global brinkmanship. It seeks to impede effective efforts by the defense department to ready itself for the challenges of the current time and the next century—all in the name of keeping it "ready" for the types of challenges which arose in the past. This bill represents not just a lost opportunity to adjust to the changes of our time, but carries with it the tone and substance that has been the basis for so many destabilizing arms and ideological competitions of the past.

We remain convinced in the value and the efficacy of our ideas, and of the accuracy of our vision that we have entered a new world with enormous potential for transformation—one in which we should boldly paint new strokes of national security and foreign policy rather than just to tinker at the margins of a now outdated national security strategy.

RONALD V. DELLUMS.
PATRICIA SCHROEDER.
LANE EVANS.
MARTIN T. MEEHAN.

DISSENTING REMARKS OF REP. LANE EVANS

I opposed final passage of the House National Security Committee's mark of the FY96 DOD Authorization Act because I believe it sets in motion a number of expensive "Cold War" procurement programs that will compete with fundamental defense spending priorities.

I am concerned that this bill puts us on a course to buy "Cold War" weapons systems such as the B-2, F-22 and National Missile Defense. Funding these types of programs seriously imbalances spending priorities. The number of big ticket and unnecessary procurement items authorized in this bill will make it difficult to fund basic defense needs in the out-years. The bow wave of increasing procurement costs that the bill sets in motion will make it much harder to ensure baseline defense capabilities. Specifically, I am concerned that this growth in procurement spending will threaten a number of important priorities such as: adequate funding to operate and maintain our forces, stable pay and benefits for our military servicemembers, and the ability to retain a steady and capable civilian workforce.

I also opposed provisions in this bill that rob important environmental funding priorities. I am proud of the work this committee has done over the last decade to clean-up the decades of neglect at the nuclear weapons production complex and military bases around our nation. Yet, the arbitrary cuts in this bill in the DOE environmental restoration account and the Defense Environmental Restoration Account (DERA) threaten to reverse this progress, and in the process, the health and safety of Americans who live and work around these facilities.

LANE EVANS.

DISSENTING VIEWS ON THE PROVISIONS REQUIRING THE IMMEDIATE SEPARATION OF HIV-POSITIVE PERSONNEL AND BANNING ABORTIONS IN MILITARY HOSPITALS OVERSEAS

We had hoped that divisive social issues would not be included in the FY96 Defense Authorization Bill.

Regrettably, two such issues were included in the personnel title in the bill reported from the National Security Committee: a ban on privately-funded abortions in military hospitals overseas and a provision to require the immediate discharge of all HIV positive service members. Neither was the subject of hearings and both are unnecessary departures from current policy.

Abortions in military hospitals overseas

The bill reported from the National Security Committee repeals current policy and bans all privately-funded abortions performed in military hospitals overseas. Under current policy, no federal funds are used, and health care professionals who are opposed to performing abortions as a matter of conscience or moral principle are not required to do so.

This is a matter of fairness. Servicewomen and military dependents stationed abroad don't expect special treatment, only the right to receive the same services guaranteed to American women by *Roe* v. *Wade*—at their own expense—that are available in this country.

Prohibiting women from using their own funds to obtain abortion services at overseas military facilities endangers their health. Women will be forced to seek illegal, unsafe procedures, or be forced to delay the procedure for several weeks until they can return to the states. The question for our House colleagues is whether they can justify limiting constitutionally-protected rights and providing lower quality health care simply because these servicewomen have duty assignments overseas. We cannot.

Separation of HIV-posutive personnel

The bill reported from the Committee also includes a provision requiring HIV-positive personnel to be immediately separated from the military services. It is punitive, discriminatory and an example of unnecessary Congressional micromanagement of the Pentagon when current policy is working.

Current law prescribes that so long as these individuals are deemed fit for duty by the Service itself, they may continue in the Service. The Department of Defense and the Services have effectively and responsibly exercised the discretion Congress provided them. There is no evidence that current policy has resulted in lower military readiness or the retention of unqualified individuals.

The Department of Defense and all four Services support current policy. They see no reason to change a policy that works well.

We regret the Committee's action endorsing these two divisive, unfair and punitive policies.

JANE HARMAN.
PAT SCHROEDER.
MARTY MEEHAN.
NEIL ABERCROMBIE.
ROSA L. DELAURO.
LANE EVANS.
MIKE WARD.
RONALD V. DELLUMS.

ADDITIONAL AND DISSENTING VIEWS OF PATRICK J. KENNEDY

While I voted to report the FY96 Defense Authorization bill out of Committee and believe that the bill contains a number of significant initiatives that will enhance our national security, there remain some issues with which I am deeply concerned.

One of the primary responsibilities of this Committee is ensuring our service personnel are properly prepared to meet any of the wide-ranging challenges and tasks our nation asks of them. In so doing, I think it is essential that we maintain a vigorous investment in the research and development of advanced technology. The budget reported out of Committee, which provides an approximate increase of $1.5 billion to the Administration's request for research and development, is a step in that direction. By applying advanced technology, we can seek to maximize military effectiveness while minimizing the human cost to our men and women in uniform. As a member of the Research and Development Subcommittee, I am pleased to note the Committee placed a high priority for investment in modeling and simulation technologies. These technologies will provide a high quality supplement to training, develop tactics and evaluate new capabilities in a cost-effective and low-risk manner.

But I firmly believe that advanced technology is only part of the picture—the most sophisticated and advanced military equipment will have little impact if our military personnel are not provided proper training and education. I was gratified to hear the service chiefs and the various CINCs who testified before the Committee this year emphatically state the need to maintain a strong and solid commitment to the mission of professional military education.

As a member of the Special Oversight Panel on the Merchant Marine, I am gratified that the Committee accepted the recommendations of the panel to provide reemployment rights for merchant seaman called to duty during times of crisis or war. These rights, long overdue and reflective of those provided to our Reserve and Guard personnel, will help maintain a strong merchant marine, a critical capability to a maritime nation such as ours.

Another issue brought up by the Panel and a topic which I hope will be the basis for future action, is the issue of enacting international standards for shipboard labor. Our Panel heard powerful testimony regarding the often treacherous and inhumane living and working conditions of foreign crews. For national security, economic, political and social reasons, I believe it would benefit the United States to take the lead in ensuring the international community moves in the direction of raising the labor standards closer to ours rather than lowering those standards to the lowest common denominator.

Finally, I am puzzled by the Committee's recommended proposal for the future of our attack submarine fleet. During Committee hearings on the budget request, the Committee queried the services on their major modernization and procurement priorities. This Committee has heard, on a number of occasions, testimony from the Navy's leadership, both civilian and military, informing us of their highest modernization priority—completing construction of the third and final Seawolf, SSN23, and beginning low-rate production of the New Attack Submarine in FY98. These two actions will enable our undersea fleet to maintain technological superiority and to meet the force structure requirements contained in the Bottom Up Review.

Yet, the Committee failed to heed Navy guidance and instead, with the stroke of a pen and without the benefit of a single hearing on the Committee proposal, decided to ignore the Navy's carefully constructed submarine modernization effort. I am disturbed that such a drastic and unexplored deviation will not only be costly in the fiscal sense but will also have a negative impact on our national security and the future development of the Navy's attack submarine fleet. I find it somewhat contradictory that the Committee believed it necessary to fund the B–2 bomber to maintain the bomber industrial base but did not find it necessary to finish construction of SSN23 to maintain the submarine industrial base, an industry with only two possible production yards and no commercial counterpart.

PATRICK J. KENNEDY.

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