105TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 105–133,
Part 1

THE DEFENSE REFORM ACT OF 1997

R E P O R T

OF THE

COMMITTEE ON NATIONAL SECURITY
HOUSE OF REPRESENTATIVES

ON

H.R. 1778

together with

DISSENTING VIEWS

JUNE 17, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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DEFENSE REFORM ACT OF 1997

JUNE 17, 1997.—Ordered to be printed

Mr. SPENCE, from the Committee on National Security, submitted the following

REPORT

[To accompany H.R. 1778]

[Including cost estimate of the Congressional Budget Office]

The Committee on National Security, to whom was referred the bill (H.R. 1778) to reform the Department of Defense, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Reform Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

TITLE I—DEFENSE PERSONNEL REFORMS

SEC. 101. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS AND HEADQUARTERS SUPPORT ACTIVITIES.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 130a. Management headquarters and headquarters support activities personnel: limitation

"(a) LIMITATION.—Effective October 1, 2001, the number of management headquarters and headquarters support activities personnel in the Department of Defense may not exceed the 75 percent of the baseline number.

"(b) PHASED REDUCTION.—The number of management headquarters and headquarters support activities personnel in the Department of Defense—

"(1) as of October 1, 1998, may not exceed 90 percent of the baseline number;

"(2) as of October 1, 1999, may not exceed 85 percent of the baseline number; and

"(3) as of October 1, 2000, may not exceed 80 percent of the baseline number.

"(c) BASELINE NUMBER.—In this section, the term 'baseline number' means the number of management headquarters and headquarters support activities personnel in the Department of Defense as of October 1, 1997.

"(d) MANAGEMENT HEADQUARTERS AND HEADQUARTERS SUPPORT ACTIVITIES PERSONNEL DEFINED.—In this section:

"(1) The term 'management headquarters and headquarters support activities personnel' means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in management headquarters activities or in management headquarters support activities.

"(2) The terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled 'Department of Defense Management Headquarters and Headquarters Support Activities', as in effect on November 12, 1996.

"(e) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, management headquarters and headquarters support activities in order to comply with this section, the Secretary of Defense and the Secretaries of the military departments may not reassign functions in order to evade the requirements of this section.

"(f) FLEXIBILITY.—If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 2001 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.".

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

"130a. Management headquarters and headquarters support activities personnel: limitation.".

(b) IMPLEMENTATION REPORT.—Not later than January 15, 1998, the Secretary of Defense shall submit to Congress a report—

(1) containing a plan to achieve the personnel reductions required by section 130a of title 10, United States Code, as added by subsection (a); and

(2) including the recommendations of the Secretary regarding—

(A) the revision, replacement, or augmentation of Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities", as in effect on November 12, 1996; and

(B) the revision of the definitions of the terms "management headquarters activities" and "management headquarters support activities" under that Directive so that those terms apply uniformly throughout the Department of Defense.

(c) CODIFICATION OF PRIOR PERMANENT LIMITATION ON OSD PERSONNEL.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end a new section 143 consisting of—

(A) a heading as follows:

"§ 143. Office of the Secretary of Defense personnel: limitation";

and

(B) a text consisting of the text of subsections (a) through (f) of section 903 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2617).

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

"143. Office of the Secretary of Defense personnel: limitation.".

(3) Section 903 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2617) is repealed.

SEC. 102. ADDITIONAL REDUCTION IN DEFENSE ACQUISITION WORKFORCE.

(a) IN GENERAL.—(1) Chapter 87 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1765. Limitations on number of personnel

"(a) LIMITATION.—Effective October 1, 2001, the number of defense acquisition personnel may not exceed the baseline number reduced by 124,000.

"(b) PHASED REDUCTION.—The number of the number of defense acquisition personnel—

"(1) as of October 1, 1998, may not exceed the baseline number reduced by 40,000;

"(2) as of October 1, 1999, may not exceed the baseline number reduced by 80,000; and

"(3) as of October 1, 2000, may not exceed the baseline number reduced by 102,000.

"(c) BASELINE NUMBER.—For purposes of this section, the baseline number is the total number of defense acquisition personnel as of October 1, 1997.

"(d) DEFENSE ACQUISITION PERSONNEL DEFINED.—(1) In this section, the term 'defense acquisition personnel' means military and civilian personnel (other than civilian personnel described in paragraph (2)) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992).

"(2) Such term does not include civilian employees of the Department of Defense who are employed at a maintenance depot.".

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

"1765. Limitations on number of personnel.".

(b) IMPLEMENTATION REPORT.—Not later than January 15, 1998, the Secretary of Defense shall submit to Congress a report—

(1) containing a plan to achieve the personnel reductions required by section 1765 of title 10, United States Code, as added by subsection (a); and

(2) containing any recommendations (including legislative proposals) that the Secretary considers necessary to fully achieve such reductions.

(c) TECHNICAL REFERENCE CORRECTION.—Section 1721(c) of title 10, United States Code, is amended by striking out "November 25, 1988" and inserting in lieu thereof "November 12, 1996".

SEC. 103. CHANGE IN REQUIRED REDUCTION IN ANNUITY FOR CERTAIN DEFENSE ACQUISITION PERSONNEL WHO ARE SEPARATED BEFORE AGE 55.

(a) ALTERNATIVE REDUCTION.—In the case of a civilian employee of the Department of Defense described in subsection (b) who is separated during fiscal year 1998 in the manner described in section 8336(d) of title 5, United States Code, the resulting reduction in annuity required to be made under section 8339(h) of such title shall be 1/12 of 1 percent for each full month the employee is under 55 years of age at the date of separation (rather than 1/6 of 1 percent).

(b) ELIGIBLE DEFENSE ACQUISITION PERSONNEL.—A civilian employee of the Department of Defense referred to in subsection (a) is a civilian employee who, as of the date of separation—

(1) is covered by the definition of "defense acquisition personnel" in section 1765(d) of title 10, United States Code, as added by section 102;

(2) is serving in grade GS–13 of the General Schedule or above; and

(3) is 50 years of age or older.

(c) EXCEPTION.—Subsection (a) shall not apply if the civilian employee accepts separation pay—

(1) under section 5597 of title 5, United States Code; or

(2) under section 104.

(d) REPORTING REQUIREMENTS.—(1) Not later than March 31, 1998, the Secretary of Defense shall submit to Congress a report specifying—

(A) the number of civilian employees of the Department of Defense (by age and grade) who have received the alternative annuity reduction authorized by this section; and

(B) the anticipated number of such employees who will receive the alternative annuity reduction during fiscal year 1998.

(2) Not later than December 1, 1998, the Secretary of Defense shall submit to Congress a final report covering fiscal year 1998 and containing the information required by paragraph (1)(A).

SEC. 104. SEPARATION PAY FOR DEFENSE ACQUISITION PERSONNEL.

(a) AVAILABILITY OF SEPARATION PAY.—The Secretary of Defense may offer separation pay under this section to a civilian employee of the Department of Defense who—

(1) is covered by the definition of "defense acquisition personnel" in section 1765(d) of title 10, United States Code, as added by section 102;

(2) is separated during fiscal year 1998 in the manner described in section 8336(d) of title 5, United States Code; and

(3) does not receive separation pay under the authority of section 5597 of title 5, United States Code.

(b) PAYMENT, AMOUNT, AND TERMS.—Subsections (d) and (g) of section 5597 of title 5, United States Code, shall apply with respect to the manner in which, the amount of, and terms under which separation pay is provided under this section.

(c) EFFECT ON OTHER SEPARATION PAY AUTHORITY.—The authority provided in this section may not be used to reduce the extent to which separation pay is provided during fiscal year 1998 under section 5597 of title 5, United States Code, as

proposed in the budget of the President for fiscal year 1998 submitted to Congress pursuant to section 1105 of title 31, United States Code.

(d) RELATIONSHIP TO OTHER SPECIAL AUTHORITY.—A civilian employee who receives separation pay under this section may not also receive a change under section 103 in the reduction otherwise made to the employee's annuity under section 8339(h) of title 5, United States Code.

(e) REPORT.—In the report required for fiscal year 1998 under section 4436(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 5 U.S.C. 5597 note), the Secretary of Defense shall include, as a separate portion of the report, information on the manner in which the authority provided in this section was implemented and the effectiveness and costs of carrying out the authority.

SEC. 105. PERSONNEL REDUCTIONS IN UNITED STATES TRANSPORTATION COMMAND.

(a) PURPOSE OF LIMITATION.—The purpose of the limitation on the number of United States Transportation Command personnel established by section 165(d) of title 10, United States Code, as added by subsection (b), is to recognize and continue the effort of the Secretary of Defense to eliminate administrative duplication and inefficiencies in the United States Transportation Command.

(b) LIMITATION.—Section 165 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) LIMITATION ON UNITED STATES TRANSPORTATION COMMAND PERSONNEL.—(1) Effective October 1, 1998, the number of United States Transportation Command personnel may not exceed 66,238.

"(2) In this subsection, the term 'United States Transportation Command personnel' means military and civilian personnel who are assigned to, or employed in, the United States Transportation Command (including the components of that combatant command).".

(c) SOURCE OF REDUCTIONS.—(1) In reducing the number of United States Transportation Command personnel in order to meet the limitation required by section 165(d) of title 10, United States Code, as added by subsection (b), the Secretary of Defense shall limit such reductions to United States Transportation Command personnel described in paragraph (2).

(2) The United States Transportation Command personnel referred to in paragraph (1) are members of the Armed Forces and civilian personnel of the Department of Defense who are assigned to, or employed in, the United States Transportation Command (including the components of that combatant command) and who are in one of the following occupational classifications established to group similar occupations and work positions into a consistent structure:

(A) Enlisted members in the Functional Support and Administration classification (designated as occupational code 5XX), as described in Department of Defense Instruction 1312.1, dated August 9, 1995, regarding "Department of Defense Occupational Information Collection and Reporting".

(B) Officers in the General Officers and Executives classification (designated as occupational code 1XX), Administrators (designated as occupational code 7XX), and Supply, Procurement, and Allied Officers classification (designated as occupational code 8XX), as described in such instruction.

(C) Civilian personnel in the Program Management classification (designated as occupational code GS–0340), Accounting and Budget classification (designated as occupational code GS–0500 and related codes), Business and Industry classification (designated as occupational code GS–1100 and related codes), and Supply classification (designated as occupational code GS–2000 and related codes), as described in Office of Personnel Management document El–12, dated November 1, 1995, entitled "Federal Occupational Groups".

TITLE II—DEFENSE BUSINESS PRACTICES REFORMS

Subtitle A—Competitive Procurement Requirements

SEC. 201. COMPETITIVE PROCUREMENT OF FINANCE AND ACCOUNTING SERVICES.

(a) COMPETITIVE PROCUREMENT REQUIRED.—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2784. Competitive procurement of finance and accounting services

"(a) COMPETITIVE PROCUREMENT REQUIRED.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure finance and accounting services for the Department of Defense, including nonappropriated fund instrumentalities of the Department of Defense. The Secretary shall establish procedures to conduct competitions among private-sector sources and the Defense Finance and Accounting Service and other interested Federal agencies. Such procedures shall not permit a component of the Defense Finance and Accounting Service to compete against any other component of the Defense Finance and Accounting Service to provide such finance and accounting services.

"(b) IMPROVEMENT OF COMPETITIVE ABILITY.—Before conducting a competition under subsection (a) for the procurement of finance and accounting services that are being provided by a component of the Defense Finance and Accounting Service, the Secretary of Defense shall provide the component with an opportunity to establish its most efficient organization.

"(c) REPORTING REQUIREMENTS.—Not later than 90 days after the end of each fiscal year in which finance and accounting services are competitively procured under subsection (a), the Secretary of Defense shall submit to Congress a report specifying the total volume of finance and accounting services procured by the Department of Defense during that fiscal year—

"(1) from sources within the Department of Defense;

"(2) from private-sector sources; and

"(3) from other sources in the Federal Government.".

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

"2784. Competitive procurement of finance and accounting services.".

SEC. 202. COMPETITIVE PROCUREMENT OF SERVICES TO DISPOSE OF SURPLUS DEFENSE PROPERTY.

(a) COMPETITIVE PROCUREMENT REQUIRED.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2572 the following new section:

"§ 2573. Competitive procurement of services to dispose of surplus property

"(a) COMPETITIVE PROCUREMENT OF SERVICES.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure services for the Department of Defense in connection with the disposal of surplus property at each site at which the Defense Reutilization and Marketing Service operates. The Secretary shall establish procedures to conduct competitions among private-sector sources and the Defense Reutilization and Marketing Service and other interested Federal agencies for the performance of all such services at a particular site.

"(b) IMPROVEMENT OF COMPETITIVE ABILITY.—Before conducting a competition under subsection (a) for the procurement of services described in such subsection that are being provided by a component of the Defense Reutilization and Marketing Service, the Secretary of Defense shall provide the component with an opportunity to establish its most efficient organization.

"(c) REPORTING REQUIREMENTS.—Not later than 90 days after the end of each fiscal year in which services for the disposal of surplus property are competitively procured under subsection (a), the Secretary of Defense shall submit to Congress a report specifying—

"(1) the type and volume of such services procured by the Department of Defense during that fiscal year from the Defense Reutilization and Marketing Service and from other sources;

"(2) the former sites of the Defense Reutilization and Marketing Service operated during that fiscal year by contractors (other than the Defense Reutilization and Marketing Service); and

"(3) the total amount of any fees paid by such contractors in connection with the performance of such services during that fiscal year.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter the requirements regarding the identification or demilitarization of an item of excess property or surplus property of the Department of Defense before the disposal of the item.

"(e) DEFINITIONS.—In this section:

"(1) The term 'surplus property' means any personal excess property which is not required for the needs and the discharge of the responsibilities of all Federal agencies and the disposal of which is the responsibility of the Department of Defense.

"(2) The term 'excess property' means any personal property under the control of the Department of Defense which is not required for its needs and the discharge of its responsibilities, as determined by the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2572 the following new item:

"2573. Competitive procurement of services to dispose of surplus property.".

(b) IMPLEMENTATION REPORT.—Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report—

(1) containing a plan to implement the competitive procurement requirements of section 2573 of title 10, United States Code, as added by subsection (a); and

(2) identifying other functions of the Defense Reutilization and Marketing Service that the Secretary considers suitable for performance by private-sector sources.

SEC. 203. COMPETITIVE PROCUREMENT OF FUNCTIONS PERFORMED BY DEFENSE INFORMATION SYSTEMS AGENCY.

(a) COMPETITIVE PROCUREMENT REQUIRED.—(1) Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2474. Competitive procurement of information services

"(a) COMPETITIVE PROCUREMENT REQUIRED.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure those commercial and industrial type functions performed before that date by the Defense Information Systems Agency. The Secretary shall establish procedures to conduct competitions among private-sector sources and the Defense Information Systems Agency and other interested Federal agencies.

"(b) IMPROVEMENT OF COMPETITIVE ABILITY.—Before conducting a competition under subsection (a) for the procurement of information services that are being provided by a component of the Defense Information Systems Agency, the Secretary of Defense shall provide the component with an opportunity to establish its most efficient organization.

"(c) EXCEPTION FOR CLASSIFIED FUNCTIONS.—(1) The requirement of subsection (a) shall not apply to the procurement of services involving a classified function performed by the Defense Information Systems Agency.

"(2) In this subsection, the term 'classified function' means any telecommunications or information services that—

"(A) involve intelligence activities;

"(B) involve cryptologic activities related to national security;

"(C) involve command and control of military forces;

"(D) involve equipment that is an integral part of a weapon or weapons system; or

"(E) are critical to the direct fulfillment of military or intelligence missions (other than routine administrative and business applications, such as payroll, finance, logistics, and personnel management applications).

"(d) REPORTING REQUIREMENTS.—Not later than 90 days after the end of each fiscal year in which services are competitively procured under subsection (a), the Secretary of Defense shall submit to Congress a report specifying the type and volume of such services procured by the Department of Defense during that fiscal year—

"(1) from sources within the Department of Defense;

"(2) from private-sector sources; and

"(3) from other sources in the Federal Government.".

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

"2474. Competitive procurement of information services.".

(b) IMPLEMENTATION REPORT.—Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report—

(1) containing a plan to implement the competitive procurement requirements of section 2474 of title 10, United States Code, as added by subsection (a);

(2) describing the services currently provided by the Defense Information Systems Agency that will be affected by such requirements; and

(3) describing the manner in which the Secretary proposes to change the support infrastructure of the Defense Information Systems Agency to meet such requirements.

SEC. 204. COMPETITIVE PROCUREMENT OF PRINTING AND DUPLICATION SERVICES.

(a) EXTENSION.—Subsection (a) of section 351 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 266) is amended—

(1) by striking out "and 1997" and inserting in lieu thereof "through 1998"; and

(2) by striking out "Defense Printing Service" and inserting in lieu thereof "Defense Automation and Printing Service".

(b) PROHIBITION ON SURCHARGE FOR SERVICES.—Such section is further amended by adding at the end the following new subsection:

"(d) PROHIBITION ON IMPOSITION OF SURCHARGE.—The Defense Automation and Printing Service may not impose a surcharge on any printing and duplication service for the Department of Defense that is procured from a source outside of the Department.".

SEC. 205. COMPETITIVE PROCUREMENT OF CERTAIN OPHTHALMIC SERVICES.

(a) COMPETITIVE PROCUREMENT REQUIRED.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure from private-sector sources, or other sources outside of the Department of Defense, all ophthalmic services related to the provision of single vision and multivision eyeware for members of the Armed Forces, retired members, and certain covered beneficiaries under chapter 55 of title 10, United States Code, who would otherwise receive such ophthalmic services through the Department of Defense.

(b) EXCEPTION.—Subsection (a) shall not apply to the extent that the Secretary of Defense determines that the use of sources within the Department of Defense to provide such ophthalmic services—

(1) is necessary to meet the readiness requirements of the Armed Forces; or

(2) is more cost effective.

(c) COMPLETION OF EXISTING ORDERS.—Subsection (a) shall not apply to orders for ophthalmic services received on or before September 30, 1998.

SEC. 206. INCREASED USE BY DEFENSE AGENCIES OF CONTRACTORS TO PERFORM COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS.

(a) INCREASED USE REQUIRED.—Section 2461 of title 10, United States Code, is amended—

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

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

"(g) INCREASED USE OF CONTRACTORS BY DEFENSE AGENCIES.—(1) In each fiscal year beginning after September 30, 1999, not less than 33 percent of the commercial and industrial type functions of the Defense Agencies shall be performed by private contractors. The Secretary of Defense may achieve this goal before that date.

"(2) In this subsection, the term 'Defense Agency' means a program activity specified in the table entitled 'Program and Financing' for operation and maintenance, Defense-wide activities, in the budget of the President transmitted to Congress for fiscal year 1998 pursuant to section 1105 of title 31 (and any successor of such activity).".

(b) IMPLEMENTATION PLAN.—Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a plan to accomplish the increased rate of outsourcing required by subsection (g) of section 2461 of title 10, United States Code, as added by subsection (a). The plan shall identify the specific Defense Agency functions to be considered for contractor performance, the number of military and civilian positions affected, and relevant milestones for the outsourcing of the identified functions.

Subtitle B—Reform of Conversion Process

SEC. 211. DEVELOPMENT OF STANDARD FORMS REGARDING PERFORMANCE WORK STATEMENT AND REQUEST FOR PROPOSAL FOR CONVERSION OF CERTAIN OPERATIONAL FUNCTIONS OF MILITARY INSTALLATIONS.

(a) STANDARD FORMS REQUIRED.—Chapter 146 of title 10, United States Code, is amended by inserting after section 2474, as added by section 203, the following new section:

"§ 2475. Military installations: use of standard forms in conversion process

"(a) STANDARDIZATION OF REQUIREMENTS.—(1) The Secretary of Defense shall develop standard forms (to be known as a 'standard performance work statement' and a 'standard request for proposal') to be used in the consideration for conversion to contractor performance of those commercial services and functions at military installations that have been converted to contractor performance at a rate of 50 percent or more, as determined under subsection (c).

"(2) A separate standard form shall be developed for each service and function covered by paragraph (1) and the forms shall be used throughout the Department

of Defense in lieu of the performance work statement and request for proposal otherwise required under the procedures and requirements of Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy).

"(3) The Secretary shall develop and implement the standard forms not later than October 1, 1998.

"(b) INAPPLICABILITY OF ELEMENTS OF OMB CIRCULAR A–76.—On and after October 1, 1998, the procedures and requirements of Office of Management and Budget Circular A–76 regarding performance work statements and requests for proposals shall not apply with respect to the conversion to contractor performance at a military installation of a service or function for which a standard form is required under subsection (a).

"(c) DETERMINATION OF CONTRACTOR PERFORMANCE PERCENTAGE.—In determining the percentage at which a particular commercial service or function at military installations has been converted to contractor performance, the Secretary of Defense shall take into consideration all military installations and use the final estimate of the percentage of contractor performance of services and functions contained in the most recent commercial and industrial activity inventory database established under Office of Management and Budget Circular A–76.

"(d) EXCLUSION OF MULTI-FUNCTION CONVERSION.—If a commercial service or function for which a standard form is developed under subsection (a) is combined with another service or function (for which such a form is not required) for purposes of considering the services and functions at the military installation for conversion to contractor performance, a standard form developed under subsection (a) may not be used in the conversion process in lieu of the procedures and requirements of Office of Management and Budget Circular A–76 regarding performance work statements and requests for proposals.

"(e) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to supersede any other requirements or limitations, specifically contained in this chapter, on the conversion to contractor performance of activities performed by civilian employees of the Department of Defense.

"(f) MILITARY INSTALLATION DEFINED.—In this section, the term 'military installation' means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2474, as added by section 203, the following new item:

"2475. Military installations: use of standard forms in conversion process.".

SEC. 212. STUDY AND NOTIFICATION REQUIREMENTS FOR CONVERSION OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE.

(a) NOTIFICATION.—Section 2461 of title 10, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"(a) NOTIFICATION OF CONVERSION STUDY.—(1) In the case of a commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees, the Secretary of Defense shall notify Congress of any decision to study the function for possible conversion to performance by a private contractor. The notification shall include information regarding the anticipated length and cost of the study.

"(2) A study of a commercial or industrial type function for possible conversion to contractor performance shall include the following:

"(A) A comparison of the performance of the function by Department of Defense civilian employees and by private contractor to determine whether contractor performance will result in savings to the Government over the life of the contract.

"(B) An examination of the potential economic effect on employees who would be affected by the conversion, and the potential economic effect on the local community and the United States if more than 75 employees perform the function.

"(C) An examination of the effect of contracting for performance of the function on the military mission of the function.

"(b) NOTIFICATION OF CONVERSION DECISION.—If, as a result of the completion of a study under subsection (a) regarding the possible conversion of a function to performance by a private contractor, a decision is made to convert the function to contractor performance, the Secretary of Defense shall notify Congress of the conversion decision. The notification shall—

"(1) indicate that the study conducted regarding conversion of the function to performance by a private contractor has been completed;

"(2) certify that the comparison required by subsection (a)(2)(A) as part of the study demonstrates that the performance of the function by a private contractor will result in savings to the Government over the life of the contract;

"(3) certify that the entire comparison is available for examination; and

"(4) contain a timetable for completing conversion of the function to contractor performance.".

(b) WAIVER FOR SMALL FUNCTIONS.—Subsection (d) of such section is amended by striking out "45 or fewer" and inserting in lieu thereof "20 or fewer".

SEC. 213. COLLECTION AND RETENTION OF COST INFORMATION DATA ON CONTRACTED OUT SERVICES AND FUNCTIONS.

(a) COLLECTION AND RETENTION REQUIRED.—Section 2463 of title 10, United States Code, is amended—

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

(2) by inserting after the section heading the following new subsection:

"(a) REQUIREMENTS IN CONNECTION WITH CONVERSION TO CONTRACTOR PERFORMANCE.—With respect to each contract converting the performance of a service or function of the Department of Defense to contractor performance (and any extension of such a contract), the Secretary of Defense shall collect, during the term of the contract or extension, but not to exceed five years, cost information data regarding performance of the service or function by private contractor employees. The Secretary shall provide for the permanent retention of information collected under this subsection.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (b), as redesignated by subsection (a)(1)—

(A) by striking out the subsection heading and inserting in lieu thereof "REQUIREMENTS IN CONNECTION WITH RETURN TO EMPLOYEE PERFORMANCE.—"; and

(B) by striking out "to which this section applies" and inserting in lieu thereof "described in subsection (c),"; and

(2) in subsection (c), as redesignated by subsection (a)(1)——

(A) by striking out the subsection heading and inserting in lieu thereof "COVERED FISCAL YEARS.—"; and

(B) by striking out "This section" and inserting in lieu thereof "Subsection (b)".

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

"§ 2463. Collection and retention of cost information data on contracted out services and functions

(2) The item relating to such section in the table of sections at the beginning of chapter 146 of title 10, United States Code, is amended to read as follows:

"2463. Collection and retention of cost information data on contracted out services and functions.".

Subtitle C—Other Reforms

SEC. 221. REDUCTION IN OVERHEAD COSTS OF INVENTORY CONTROL POINTS.

(a) REDUCTION IN COSTS REQUIRED.—The Secretary of Defense shall take such actions as may be necessary to reduce the annual overhead costs of the supply management activities of the Defense Logistics Agency and the military departments (known as Inventory Control Points) so that the annual overhead costs are not more than eight percent of annual net sales at standard price by the Inventory Control Points.

(b) TIME TO ACHIEVE REDUCTION.—The Secretary shall achieve the cost reductions required by subsection (a) not later than September 30, 2000.

(c) IMPLEMENTATION PLAN.—Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a plan to achieve the reduction in overhead costs required by subsection (a).

(d) DEFINITIONS.—For purposes of this section:

(1) The term "overhead costs" means the total expenses of the Inventory Control Points, excluding—

(A) annual materiel costs; and

(B) military and civilian personnel related costs, defined as personnel compensation and benefits under the March 1996 Department of Defense

Financial Management Regulations, Volume 2A, Chapter 1, Budget Account Title File (Object Classification Name/Code), object classifications 200, 211, 220, 221, 222, and 301.

(2) The term "net sales at standard price" has the meaning given that term in the March 1996 Department of Defense Financial Management Regulations, Volume 2B, Chapter 9, and displayed in "Exhibit Fund—14 Revenue and Expenses" for the supply management business areas.

SEC. 222. CONSOLIDATION OF PROCUREMENT TECHNICAL ASSISTANCE AND ELECTRONIC COMMERCE TECHNICAL ASSISTANCE.

(a) CONSOLIDATION OF ASSISTANCE.—Chapter 142 of title 10, United States Code, is amended as follows:

(1) Sections 2412, 2414, 2417, and 2418 are each amended by inserting "and electronic commerce" after "procurement" each place it appears.

(2) Section 2413 is amended—

(A) in subsection (b), by striking out "procurement technical assistance" and inserting in lieu thereof "both procurement technical assistance and electronic commerce technical assistance"; and

(B) in subsection (c), by inserting "and electronic commerce" after "procurement".

(b) REQUIREMENT TO USE COMPETITIVE PROCEDURES.—Section 2413 of such title is amended by adding at the end the following new subsection:

"(d) The Secretary shall use competitive procedures in entering into cooperative agreements under subsection (a).".

(c) LIMITATION ON USE OF FUNDS.—Section 2417 of such title is amended—

(1) by striking out "The Director" and inserting in lieu thereof the following: "(b) ADMINISTRATIVE COSTS.—The Director"; and

(2) by inserting before subsection (b) (as designated by paragraph (1)) the following:

"(a) LIMITATION ON USE OF FUNDS.—In any fiscal year the Secretary of Defense may use for the program authorized by this chapter only funds specifically appropriated for the program for that fiscal year.".

(d) CLERICAL AMENDMENTS.—(1) The heading for chapter 142 of such title is amended to read as follows:

"CHAPTER 142—PROCUREMENT AND ELECTRONIC COMMERCE TECHNICAL ASSISTANCE PROGRAM".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by striking out the item relating to chapter 142 and inserting in lieu thereof the following:

"142. Procurement and Electronic Commerce Technical Assistance Program ..... 2411".

(3) The heading for section 2417 of such title is amended to read as follows:

"§ 2417. Funding provisions".

(4) The table of sections at the beginning of chapter 142 of such title is amended by striking out the item relating to section 2417 and inserting in lieu thereof the following:

"2417. Funding provisions.".

SEC. 223. PERMANENT AUTHORITY REGARDING CONVEYANCE OF UTILITY SYSTEMS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2687 the following new section:

"§ 2688. Utility systems: permanent conveyance authority

"(a) CONVEYANCE AUTHORITY.—The Secretary of a military department may convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. The conveyance may consist of all right, title, and interest of the United States in the utility system or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

"(b) UTILITY SYSTEM DEFINED.—In this section, the term 'utility system' includes the following:

"(1) Electrical generation and supply systems.

"(2) Water supply and treatment systems.

"(3) Wastewater collection and treatment systems.

"(4) Steam or hot or chilled water generation and supply systems.

"(5) Natural gas supply systems.

"(6) Sanitary landfills or lands to be used for sanitary landfills.

"(7) Similar utility systems.

"(c) CONSIDERATION.—(1) The Secretary of a military department may accept consideration received for a conveyance under subsection (a) in the form of a cash payment or a reduction in utility rate charges for a period of time sufficient to amortize the monetary value of the utility system, including any real property interests, conveyed.

"(2) Cash payments received shall be credited to an appropriation account designated as appropriate by the Secretary of Defense. Amounts so credited shall be available for the same time period as the appropriation credited and shall be used only for the purposes authorized for that appropriation.

"(d) CONGRESSIONAL NOTIFICATION.—A conveyance may not be made under subsection (a) until—

"(1) the Secretary of the military department concerned submits to the appropriate committees of Congress (as defined in section 2801(c)(4) of this title) a report containing an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) which demonstrates that the full cost to the United States of the proposed conveyance is cost-effective when compared with alternative means of furnishing the same utility systems; and

"(2) a period of 21 days has elapsed after the date on which the report is received by the committees.

"(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the military department concerned may require such additional terms and conditions in a conveyance entered into under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2687 the following new item:

"2688. Utility systems: permanent conveyance authority.".

TITLE III—DEFENSE ENVIRONMENTAL REFORMS

Subtitle A—Superfund Reforms Generally

SEC. 301. REVISION OF METHODS OF REMEDIATION.

Section 121(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(b)) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) METHODS OF REMEDIATION.—(A) Remedies selected at individual facilities shall be protective of human health and the environment over the long term. A remedial action may achieve protection of human health and the environment through—

"(i) treatment that reduces the toxicity, mobility, or volume of hazardous substances, pollutants, or contaminants;

"(ii) containment or other engineering controls to limit exposure;

"(iii) a combination of treatment and containment; or

"(iv) other methods of protection.

"(B) The method or methods of remediation appropriate for a given facility shall be determined through the evaluation of remedial alternatives and the selection process under paragraph (2). When determining the appropriate remedial method, treatment is to be preferred for hot spots as defined under paragraph (2)(C).

"(2) APPROPRIATE REMEDIAL ACTION.—

"(A) IN GENERAL.—The President shall identify and select an appropriate remedy that minimizes exposures by comparing alternative remedies and balancing the following factors with respect to each such remedy:

"(i) The effectiveness of the remedy, including its implementability.

"(ii) The long-term reliability of the remedy, that is, its capability to achieve long-term protection of human health and the environment considering the preference for treatment of hot spots.

"(iii) The short-term risk posed by the implementation of the remedy to the affected community, to those engaged in the cleanup effort, and to the environment.

"(iv) The acceptability of the remedy to the affected community.

"(v) The reasonableness of the cost of the remedy.

"(vi) The results of any risk assessments conducted with respect to the remedy.

"(vii) The costs, both direct and indirect, of the remedy.

"(B) DEFERRAL OF REMEDIAL ACTION.—The President may defer the selection of a remedial action if the President determines that—

"(i) the hazardous substance, pollutant, or contaminant can be contained in a manner sufficient to protect human health and the environment; and

"(ii) an innovative technology is expected to be available in the near future that will provide a more cost-effective remedy.

"(C) HOT SPOTS.—The following shall apply to the remediation of hot spots:

"(i) For purposes of this section, the term 'hot spot' means a discrete area within a facility that contains hazardous substances, pollutants or contaminants (I) that are present in high concentrations, are highly mobile, and cannot be reliably contained; or (II) that would present a significant risk to human health or the environment. The President shall develop guidelines for the identification of hot spots. Such guidelines shall recommend appropriate field investigations that will not require extraordinarily complex or costly measures.

"(ii) In determining an appropriate remedy for hot spots, the President shall consider the factors under subparagraph (A). With respect to the factor in clause (v) of subparagraph (A), the President shall use a higher threshold for evaluating the reasonableness of costs for hot spot treatment relative to the remediation of non-hot spot materials.

"(iii) The President shall select a remedy requiring treatment of materials constituting hot spots to the maximum extent practicable, consistent with the protection of human health and the environment. In such instances, the President shall select an interim containment remedy for such hot spot subject to adequate monitoring and public reporting to ensure its continued integrity and shall review the interim containment remedy in accordance with subsection (c). When the appropriate treatment technology becomes available, as determined by the President, that remedy shall be considered in accordance with this section.

"(iv) Notwithstanding the presence of a hot spot, the President may select a final containment remedy for hot spots at landfills and mining sites or similar facilities under the following circumstances:

"(I) The hot spot is small relative to the overall volume of waste or contamination being addressed, the hot spot is not readily identifiable and accessible, and without the presence of the hot spot containment would have been selected as the appropriate remedy under subparagraph (A) for the larger body of waste or area of contamination in which the hot spot is located.

"(II) The volume and areal extent of the hot spot is extraordinary compared to other facilities, and it is highly unlikely due to the size and other characteristics of the hot spot that any treatment technology will be developed that could be implemented at reasonable cost.

Where final containment for a hot spot is selected, the President shall publish an explanation of the basis for that decision.

"(3) GENERIC REMEDIES.—In order to streamline the remedy selection process and to facilitate rapid voluntary action, the President shall establish, taking into account the reasonably anticipated future land uses at the facility and the factors enumerated in paragraph (1)(A)(i), cost-effective generic remedies for categories of facilities, and expedited procedures that include community involvement for selecting generic remedies at an individual facility. To be eligible for selection at a facility, a generic remedy shall be protective of human health and the environment at that facility. In appropriate cases, the President may select a generic remedy without considering alternatives to the generic remedy.

"(4) INSTITUTIONAL CONTROLS.—Whenever the President selects a remedial action which relies on restrictions on the use of land, water, or other resources to achieve protection of human health and the environment, the President shall specify the nature of the restrictions required to achieve such protections, including restrictions on the permissible uses of land, prohibitions on specified activities upon the property, restrictions on the drilling of wells or the use of ground water, or restrictions on the use of surface water, and may ensure that such restrictions are incorporated into a hazardous substance easement. In re-

viewing remedial action alternatives which would require the use of such restrictions and providing opportunity for public comment on those alternatives, the President shall identify the nature of any institutional controls that would be required to implement such restrictions, known or anticipated affected persons, the likely duration of such restrictions, and the anticipated costs of acquiring any appropriate hazardous substance easements and enforcing the appropriate restrictions.".

SEC. 302. REQUIREMENT TO CONSIDER REASONABLY ANTICIPATED FUTURE LAND USE.

Section 121(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(b)) is further amended by adding at the end the following:

"(5) LAND USE.—(A) Before selecting a remedy under subsection (a), the President shall identify the reasonably anticipated future uses of land at a facility as required by this Act. In identifying reasonably anticipated future land uses, the President shall consider factors that include the factors listed in subparagraph (B). In the case of a military installation that is not scheduled for closure or realignment, the President shall consider such factors to the maximum extent practicable.

"(B) The factors referred to in subparagraph (A) are as follows:

"(i) Views expressed by members of the affected community.

"(ii) With respect to a Federal facility scheduled for closure or a portion of a Federal facility scheduled for transfer from the ownership or control of the Federal Government to another entity, any joint consensus recommendation of a technical review committee established for a facility of the Department of Defense pursuant to section 2705(c) of title 10, United States Code, a restoration advisory board established for such a facility pursuant to section 2705(d) of such title, a local land use redevelopment authority, and another appropriate State agency, or, with respect to a defense nuclear facility of the Department of Energy, a citizen advisory board.

"(iii) The land use history of the facility and surrounding properties, the current land uses of the facility and surrounding properties, recent development patterns in the area where the facility is located, and population projections for that area.

"(iv) Federal or State land use designations, including Federal facilities and national parks, State ground water or surface water recharge areas established under a State's comprehensive protection plan for ground water or surface water, and recreational areas.

"(v) The current land use zoning and future land use plans of the local government with land use regulatory authority.

"(vi) The potential for economic redevelopment.

"(vii) The proximity of the contamination to residences, sensitive populations or ecosystems, natural resources, or areas of unique historic or cultural significance.

"(viii) Current plans for the facility by the property owner or owners, not including potential voluntary remedial measures.".

SEC. 303. LIMITATION ON CRIMINAL LIABILITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

"(k) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

"(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer, employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

"(2) appropriated funds were available to pay for the response action.".

SEC. 304. STATE ROLE AT FEDERAL FACILITIES.

Subsection (g) of section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended to read as follows:

"(g) TRANSFER OF AUTHORITIES.—

"(1) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under subsections (e) and (h) (other than subsection (h)(2)) of this section at any or all facilities owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government), including the authority—

"(A) to review and approve all documents prepared in connection with any such investigation and study;

"(B) to review and select remedies pursuant to subsection (e)(4)(A); and

"(C) to enter into agreements with departments, agencies, and instrumentalities of the United States in accordance with subsection (e)(2), and to enter into consent decrees with other potentially responsible parties in accordance with subsection (e)(6).

"(2) TRANSFER OF AUTHORITIES.—(A) The Administrator may enter into a contract or cooperative agreement to transfer some or all of the authorities described in paragraph (1) if the Administrator makes the determinations in subparagraph (B) and the State agrees to the conditions in subparagraph (C).

"(B) The determinations to be made by the Administrator under subparagraph (A) are the following:

"(i) The State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise.

"(ii) The State demonstrates experience in exercising similar authorities.

"(C) The conditions to be agreed to by the State under subparagraph (A) are the following:

"(i) The State will not redelegate any of the authorities transferred to it by the Administrator, except as provided in the transfer agreement.

"(ii) In the case of a State that is authorized to implement a State hazardous waste program pursuant to section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), the State will not exercise the authorities under that Act at the same time and at the same site as it exercises the authorities transferred to it under this subsection, with respect to a release or threat of release being addressed by the authorities transferred to it.

"(iii) The State will exercise the authorities transferred to it with respect to each department, agency, and instrumentality of the United States in the same manner and to the same extent, both procedurally and substantively, as it exercises the authorities with respect to any non-Federal entity.

"(3) EFFECT OF AUTHORIZATION UNDER SOLID WASTE DISPOSAL ACT.—In the review by the Administrator of an application of a State for transfer of authorities under this subsection, if the State is authorized to implement a State hazardous waste program pursuant to section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), the following provisions apply:

"(A) With respect to a State that is a signatory to an interagency agreement under subsection (e)(2) that is in effect on the effective date of this subsection, the Administrator, in making the determinations referred to in paragraph (2), shall accord substantial weight to the State's hazardous waste program authorization and the Administrator's findings in approving such authorization.

"(B) With respect to a State whose authorization under such section 3006 includes authorization to implement the corrective action provisions of the Solid Waste Disposal Act, the Administrator shall approve the application and provide for the orderly transfer of authorities as expeditiously as possible, but in no case later than 6 months after the date of receipt of the application, unless the parties agree to another deadline.

"(4) EFFECT OF TRANSFER.—Any State to which authorities are transferred under this subsection shall not be deemed to be an agent of the President but shall exercise such authorities in its own name, and the Administrator may transfer to a State only those authorities of the Administrator identified in this subsection.

"(5) DEADLINES.—Except as provided in paragraph (3)(B), the Administrator shall make a determination on an application from a State under this subsection not later than 90 days after the date the Administrator receives the application.

"(6) WITHDRAWAL OF AUTHORITIES.—

"(A) IN GENERAL.—The Administrator may withdraw the authorities transferred under this subsection in whole or in part if the Administrator determines—

"(i) that the State, in whole or in part, is exercising such authorities in a manner clearly inconsistent with the requirements of this Act; or

"(ii) in the case of a State that was approved under paragraph (3)(B), that the State is no longer authorized to implement the corrective action provisions of the Solid Waste Disposal Act.

"(B) REQUIREMENT OF WRITTEN NOTICE.—At least 90 days before withdrawing any such transferred authorities from a State, the Administrator shall provide to the State a written explanation of the reasons for the proposed withdrawal and afford an opportunity to the State to discuss the withdrawal and to propose actions to correct any deficiencies.

"(7) ENFORCEMENT AND REMEDY SELECTION.—

"(A) IN GENERAL.—An interagency agreement under this section between a State (including States which are parties to such agreements through the exercise of the Administrator's authorities pursuant to a cooperative agreement or contract under this subsection) and any department, agency, or instrumentality of the United States, shall be enforceable by the State or the Federal department, agency, or instrumentality in the United States district court for the district in which the facility is located. The district court shall have the jurisdiction to enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination which has become effective under such agreement, and to impose any appropriate civil penalty provided for any violation of the agreement, not to exceed $25,000 per day.

"(B) FAILURE TO CONCUR IN REMEDY SELECTION.—

"(i) IN GENERAL.—At Federal facilities where the Administrator's authorities under subsection (e)(4) have been transferred to the State pursuant to this section, and the State does not concur in the remedy selection proposed by the Federal agency, the parties shall enter into dispute resolution as provided in the interagency agreement, provided that the final level for such disputes concerning remedy selection shall be to the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(ii) STATE REMEDY SELECTION.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor, the State may issue the final determination, except that the State shall pay or assure the payment of any additional costs attributable to carrying out the remedial action selected by the State.

"(8) LIMITATION.—Except for authorities that are transferred by the Administrator to a State pursuant to this subsection, or that are transferred by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by Executive order of the President or otherwise, to any other officer or employee of the United States or to any other person. Except as necessary to specifically implement the transfer of the Administrator's authorities to a State pursuant to this subsection, nothing in this subsection shall be construed as altering, modifying, or impairing in any manner, or authorizing the unilateral modification of, any terms of any agreement, permit, administrative, or judicial order, decree, or interagency agreement existing on the effective date of this subsection. Any other modifications or revisions of an interagency agreement entered into under this section shall require the consent of all parties to such agreement, and absent such consent the agreement shall remain unchanged. Nothing in this subsection shall affect the exercise by a State of any other authorities that may be applicable to facilities in such State.".

Subtitle B—Superfund and Other Environmental Law Reforms Applicable to Department of Defense or Department of Energy

SEC. 311. STANDARDS FOR REMEDIAL ACTIONS CONDUCTED AT DEFENSE FACILITIES NOT ON THE NATIONAL PRIORITIES LIST.

Section 2701(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) EXEMPTION OF REMEDIAL ACTIONS CONDUCTED AT FACILITIES NOT LISTED ON THE NATIONAL PRIORITIES LIST FROM CERTAIN REQUIREMENT.—Notwithstanding subsection (a)(2) and paragraph (1) of this subsection, the requirement of section 121(d)(2) of CERCLA (42 U.S.C. 9621(d)(2)) relating to the attainment of a relevant and appropriate standard, requirement, criteria, or limitation shall not apply to a remedial action conducted at a facility under the jurisdiction of the Secretary of Defense if the facility is not listed on the National Priorities List under CERCLA.".

SEC. 312. AUTHORITY OF SECRETARY OF DEFENSE AND SECRETARY OF ENERGY TO TERMINATE LONG-TERM OPERATION AND MAINTENANCE OF REMEDIAL ACTIONS AND CORRECTIVE ACTIONS.

(a) REMEDIAL ACTIONS.—Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621), as amended by section 303, is further amended by adding at the end the following new subsection:

"(l) TERMINATION OF LONG-TERM OPERATION AND MAINTENANCE.—The Secretary of Defense, with respect to any site or facility of the Department of Defense, and the Secretary of Energy, with respect to any site or facility of the Department of Energy, may terminate the long-term operation and maintenance of a completed remedial action in any case in which the Secretary determines, with the concurrence of the Administrator or appropriate State or local authorities, that the release or threat of release of hazardous substances, pollutants, or contaminants at the site or facility is no longer a threat to human health and the environment.".

(b) CORRECTIVE ACTIONS.—Section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)) is amended by adding at the end the following: "The Secretary of Defense, with respect to any site or facility of the Department of Defense, and the Secretary of Energy, with respect to any site or facility of the Department of Energy, may terminate the long-term operation and maintenance of a completed corrective action in any case in which the Secretary determines, with the concurrence of the Administrator or appropriate State or local authorities, that the release of hazardous waste or constituents at the site or facility is no longer a threat to human health and the environment.".

SEC. 313. NOTIFICATION TO CONGRESS OF COSTS OF DEPARTMENT OF ENERGY ENVIRONMENTAL COMPLIANCE AGREEMENTS.

(a) NOTICE TO CONGRESS.—The Secretary of Energy may not enter into an environmental compliance agreement, or agree to a major modification of such an agreement, until after the Secretary submits to Congress the following information with respect to the agreement or modification:

(1) The total cost of carrying out the agreement or modification, and the total cost of other options considered for carrying out the requirements that are the subject of the agreement or modification.

(2) An estimate of the budget authority and outlays, by year, required while the agreement or modification is in effect.

(3) The projected cost of carrying out each milestone in the agreement or modification, and the schedule for the initiation of activities under each milestone.

(4) An estimate of the monetary penalties that may be assessed by the Environmental Protection Agency or the State concerned against the Department of Energy for failure to adhere to the terms of the compliance agreement.

(b) DEFINITION.—In this section, the term "environmental compliance agreement" means an interagency agreement under section 120(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(e)(2)) entered into by the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the State in which a facility of the Department of Energy is located that provides for compliance by the Department of Energy at that facility with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(c) CALCULATION OF 90 DAYS.—For purposes of subsection (a), the continuity of a session of Congress is broken only by an adjournment of the Congress 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 the 90-day period.

SEC. 314. CLEAN AIR ACT STANDARDS FOR MILITARY SOURCES.

(a) CONTINUED EFFECTIVENESS OF EXEMPTIONS.—Any exemption described in subsection (b) for property owned or operated by the Armed Forces that is in effect on the date of the enactment of this Act shall remain in effect with respect to any covered requirement that is adopted after such date of enactment.

(b) COVERED EXEMPTIONS.—Subsection (a) applies to any exemption from a covered requirement that is issued—

(1) by the Administrator of the Environmental Protection Agency pursuant to rulemaking authority under the Clean Air Act (42 U.S.C. 7401 et seq.); or

(2) by a State in its State implementation plan for that Act.

(c) COVERED REQUIREMENTS.—In this section, the term "covered requirement" means a requirement referred to in section 118(a) of the Clean Air Act (42 U.S.C. 7418(a)) that relates to ozone or particulate matter.

SEC. 315. AUTHORITY OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY WITH RESPECT TO APPLICATION OF SOLID WASTE DISPOSAL ACT TO MILITARY MUNITIONS.

Section 3004(y) of the Solid Waste Disposal Act (42 U.S.C. 6924(y)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) The Administrator shall exempt unexpended military munitions from regulation under this Act upon a finding by the Administrator that such military munitions are subject to management under another Federal law or regulation and that such other federal law or regulation is sufficiently protective of human health and the environment so as to make additional regulation under this Act duplicative or unnecessary.".

TITLE IV—MISCELLANEOUS ADDITIONAL DEFENSE REFORMS

SEC. 401. LONG-TERM CHARTER CONTRACTS FOR ACQUISITION OF AUXILIARY VESSELS FOR THE DEPARTMENT OF DEFENSE.

(a) PROGRAM AUTHORIZATION.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7233. Auxiliary vessels: authority for long-term charter contracts

"(a) AUTHORIZED CONTRACTS.—After September 30, 1998, the Secretary of the Navy, subject to subsection (b), may enter into a contract for the long-term lease or charter of a newly built surface vessel, under which the contractor agrees to provide a crew for the vessel for the term of the long-term lease or charter, for any of the following:

"(1) The combat logistics force of the Navy.

"(2) The strategic sealift program of the Navy.

"(3) Other auxiliary support vessels for the Department of Defense.

"(b) CONTRACTS REQUIRED TO BE AUTHORIZED BY LAW.—A contract may be entered into under this section with respect to specific vessels only if the Secretary is specifically authorized by law to enter into such a contract with respect to those vessels.

"(c) FUNDS FOR CONTRACT PAYMENTS.—The Secretary may make payments for contracts entered into under this section using funds available for obligation during the fiscal year for which the payments are required to be made. Any such contract shall provide that the United States will not be required to make a payment under the contract (other than a termination payment, if required) before October 1, 2000.

"(d) BUDGETING PROVISIONS.—Any contract entered into under this section shall be treated as a multiyear service contract and as an operating lease for purposes of any provision of law relating to the Federal budget and Federal budget accounting procedures, including part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.), and any regulation or directive (including any directive of the Office of Management and Budget) prescribed with respect to the Federal budget and Federal budget accounting procedures.

"(e) TERM OF CONTRACT.—In this section, the term 'long-term lease or charter' means a lease, charter, service contract, or conditional sale agreement with respect to a vessel the term of which (including any option period) is for a period of 20 years or more.

"(f) OPTION TO BUY.—A contract entered into under the authority of this section may contain options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an amount not in excess of the unamortized portion of the cost of the vessels plus amounts incurred in connection with the termination of the financing arrangements associated with the vessels.

"(g) DOMESTIC CONSTRUCTION.—The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies—

"(1) shall have been constructed in a shipyard within the United States; and

"(2) upon delivery, shall be documented under the laws of the United States.

"(h) VESSEL CREWING.—The Secretary shall require in any contract entered into under this section that the crew of any vessel to which the contract applies be comprised of private sector commercial mariners.

"(i) CONTINGENT WAIVER OF OTHER PROVISIONS OF LAW.—A contract authorized by this section may be entered into without regard to section 2401 or 2401a of this title if the Secretary of Defense makes the following findings with respect to that contract:

"(1) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

"(2) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request funding for the contract at the level required to avoid contract cancellation.

"(3) The use of such contract or the exercise of such option is in the interest of the national defense.

"(j) SOURCE OF FUNDS FOR TERMINATION LIABILITY.—If a contract entered into under this section is terminated, the costs of such termination may be paid from—

"(1) amounts originally made available for performance of the contract;

"(2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or

"(3) funds appropriated for those costs.".

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

"7233. Auxiliary vessels: authority for long-term charter contracts.".

SEC. 402. FIBER-OPTICS BASED TELECOMMUNICATIONS LINKAGE OF MILITARY INSTALLATIONS.

(a) INSTALLATION REQUIRED.—In at least one metropolitan area of the United States containing multiple military installations of one or more military department or Defense Agency, the Secretary of Defense shall provide for the installation of fiber-optics based telecommunications technology to link as many of the installations in the area as practicable in a privately dedicated telecommunications network. The Secretary shall use a competitive process to provide for the installation of the telecommunications network through one or more new contracts.

(b) FEATURES OF NETWORK.—The telecommunications network shall provide direct access to local and long distance telephone carriers, allow for transmission of both classified and unclassified information, and take advantage of the various capabilities of fiber-optics based telecommunications technology.

(c) TIME FOR INSTALLATION.—The telecommunications network or networks to be installed under this section shall be installed and operational not later than September 30, 1999.

(d) REPORT ON IMPLEMENTATION.—Not later than March 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of subsections (a) and (b), including the metropolitan area or areas selected for the telecommunications network, the estimated cost of the network, and potential areas for the future use of such fiber-optics based telecommunications technology.

SEC. 403. REPEAL OF REQUIREMENT FOR CONTRACTOR GUARANTEES ON MAJOR WEAPON SYSTEMS.

(a) REPEAL.—Section 2403 of title 10, United States Code, is repealed.

(b) CLERICAL AND CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2403.

(2) Section 803 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2604; 10 U.S.C. 2430 note) is amended—

(A) in subsection (a), by striking out "2403,";

(B) by striking out subsection (c); and

(C) by redesignating subsection (d) as subsection (c).

SEC. 404. REQUIREMENTS RELATING TO MICRO-PURCHASES OF COMMERCIAL ITEMS.

(a) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(l) MICRO-PURCHASES.—(1) A contracting officer may not award a contract or issue a purchase order to buy commercial items for an amount equal to or less than the micro-purchase threshold unless a member of the Senior Executive Service or a general or flag officer makes a written determination that—

"(A) the source or sources available for the commercial item do not accept a preferred micro-purchase method, and the contracting officer is seeking a source that does accept such a method; or

"(B) the nature of the commercial item necessitates a contract or purchase order so that terms and conditions can be specified.

"(2) In this subsection:

"(A) The term 'micro-purchase threshold' has the meaning provided in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

"(B) The term 'preferred micro-purchase method' means the use of the Government-wide commercial purchase card or any other method for carrying out micro-purchases that Secretary of Defense prescribes in the regulations implementing this subsection.

"(3) The Secretary of Defense shall prescribe regulations to implement this subsection. The regulations shall include such additional preferred methods of carrying out micro-purchases, and such exceptions to the requirement of paragraph (1), as the Secretary considers appropriate.".

(b) EFFECTIVE DATE.—Subsection (l) of section 2304 of title 10, United States Code, as added by subsection (a), shall apply with respect to micro-purchases made on or after October 1, 1997.

SEC. 405. AVAILABILITY OF SIMPLIFIED PROCEDURES TO COMMERCIAL ITEM PROCUREMENTS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304(g) of title 10, United States Code, is amended in paragraph (1)(B) by striking out "only".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended in paragraph (1)(B) by striking out "only".

SEC. 406. TERMINATION OF THE ARMED SERVICES PATENT ADVISORY BOARD.

(a) TERMINATION OF BOARD.—The organization within the Department of Defense known as the Armed Services Patent Advisory Board is terminated. No funds available for the Department of Defense may be used for the operation of that Board after the date specified in subsection (c).

(b) TRANSFER OF FUNCTIONS.—All functions performed on the day before the date of the enactment of this Act by the Armed Services Patent Advisory Board (including performance of the responsibilities of the Department of Defense for security review of patent applications under chapter 17 of title 35, United States Code) shall be transferred to the Defense Technology Security Administration.

(c) EFFECTIVE DATE.—Subsection (a) shall take effect at the end of the 120-day period beginning on the date of the enactment of this Act.

SEC. 407. COORDINATION OF DEPARTMENT OF DEFENSE CRIMINAL INVESTIGATIONS AND AUDITS.

(a) BOARD ON CRIMINAL INVESTIGATIONS.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 182. Board on Criminal Investigations

"(a) ESTABLISHMENT.—(1) There is in the Department of Defense a Board on Criminal Investigations. The Board consists of the following officials:

"(A) The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

"(B) The head of the Army Criminal Investigation Command.

"(C) The head of the Naval Criminal Investigative Service.

"(D) The head of the Air Force Office of Special Investigations.

"(2) To ensure cooperation between the military department criminal investigative organizations and the Defense Criminal Investigative Service, the Inspector General of the Department of Defense shall serve as a nonvoting member of the Board.

"(b) FUNCTIONS OF BOARD.—The Board shall provide for coordination and cooperation between the military department criminal investigative organizations so as to avoid duplication of effort and maximize resources available to the military department criminal investigative organizations.

"(c) REGIONAL WORKING GROUPS.—The Board shall establish working groups at the regional level to address and resolve issues of jurisdictional responsibility that may arise regarding criminal investigations involving a military department criminal investigative organization. A working group shall consist of managers or supervisors of the military department criminal investigative organizations who have the authority to make binding decisions regarding which organization will conduct a particular criminal investigation or whether a criminal investigation should be conducted jointly.

"(d) AUTHORITY OF ASSISTANT SECRETARY.—In the event that a regional working group or the Board is unable to resolve an issue of investigative responsibility, the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall have the responsibility to make a final determination regarding the issue.

"(e) MILITARY DEPARTMENT CRIMINAL INVESTIGATIVE ORGANIZATION DEFINED.—In this section, the term 'military department criminal investigative organization' means any of the following:

"(1) The Army Criminal Investigation Command.

"(2) The Naval Criminal Investigative Service.

"(3) The Air Force Office of Special Investigations.".

(b) BOARD ON AUDITS.—Such chapter is further amended by inserting after section 182, as added by subsection (a), the following new section:

"§ 183. Board on Audits

"(a) ESTABLISHMENT.—(1) There is in the Department of Defense a Board on Audits. The Board consists of the following officials:

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

"(B) The Auditor General of the Army.

"(C) The Auditor General of the Navy.

"(D) The Auditor General of the Air Force.

"(E) The director of the Defense Contract Audit Agency.

"(2) To ensure cooperation between the defense auditing organizations and the Office of the Inspector General of the Department of Defense, the Inspector General of the Department of Defense shall serve as a nonvoting member of the Board.

"(b) FUNCTIONS OF BOARD.—The Board shall provide for coordination and cooperation between the defense auditing organizations so as to avoid duplication of effort and maximize resources available to the defense auditing organizations.

"(c) REGIONAL WORKING GROUPS.—The Board shall establish working groups at the regional level to address and resolve issues of jurisdictional responsibility that may arise regarding audits involving a defense auditing organization. A working group shall consist of managers or supervisors of the defense auditing organizations who have the authority to make binding decisions regarding which defense auditing organization will conduct a particular audit or whether an audit should be conducted jointly.

"(d) AUTHORITY OF UNDER SECRETARY OF DEFENSE (COMPTROLLER).—In the event that a regional working group or the Board is unable to resolve an issue of jurisdictional responsibility, the Under Secretary of Defense (Comptroller) shall have the responsibility to make a final determination regarding the issue.

"(e) DEFENSE AUDITING ORGANIZATION DEFINED.—In this section, the term 'defense auditing organization' means any of the following:

"(1) The Army Audit Agency.

"(2) The Naval Audit Service.

"(3) The Air Force Audit Agency.

"(4) The Defense Contract Audit Agency.".

(c) WORKING GUIDANCE.—Not later than December 31, 1997, the Secretary of Defense shall prescribe such policies as may be necessary for the operation of the Board on Criminal Investigations and the Board on Audits established pursuant to the amendments made by this section.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"182. Board on Criminal Investigations.
"183. Board on Audits.".

SEC. 408. DEPARTMENT OF DEFENSE BOARDS, COMMISSIONS, AND ADVISORY COMMITTEES.

(a) TERMINATION OF EXISTING ADVISORY COMMITTEES.—(1) Effective December 31, 1998, any advisory committee established in, or administered or funded (in whole or in part) by, the Department of Defense that (A) is in existence on the day before the date of the enactment of this Act, and (B) was not established by law, or expressly continued by law, after January 1, 1995, is terminated.

(2) For purposes of this section, the term "advisory committee" means an entity that is subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(b) REPORT ON COMMITTEES FOR WHICH CONTINUATION IS REQUESTED.—Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report setting forth those advisory committees subject to subsection (a) that the Secretary proposes to continue. The Secretary shall include in the report, for each such committee, the justification for continuing the committee and a statement of the costs of such continuation over the next four fiscal years. The Secretary shall include in the report a proposal for any legislation that may be required for the continuations proposed in the report.

(c) POLICY FOR FUTURE DOD ADVISORY COMMITTEES.—(1) Chapter 7 of title 10, United States Code, is amended by inserting after section 183, as added by section 407(b), the following new section:

"§ 184. Boards, commissions, and other advisory committees: limitations

"(a) LIMITATION ON ESTABLISHMENT.—No advisory committee may be established in, or administered or funded (in whole or in part) by, the Department of Defense except as specifically provided by law after the date of the enactment of this section.

"(b) TERMINATION OF ADVISORY COMMITTEES.—Each advisory committee of the Department of Defense (whether established by law, by the President, or by the Secretary of Defense) shall terminate not later than the expiration of the four-year period beginning on the date of its establishment or on the date of the most recent continuation of the advisory committee by law.

"(c) EXCEPTION FOR TEMPORARY ADVISORY COMMITTEES.—Subsection (a) does not apply to an advisory committee established for a period of one year or less for the purpose (as set forth in the charter of the advisory committee) of examining a matter that is critical to the national security of the United States.

"(d) ANNUAL REPORT.—Not later than March 1 of each year (beginning in 1999), the Secretary of Defense shall submit to Congress a report on advisory committees of the Department of Defense. In each such report, the Secretary shall identify each advisory committee that the Secretary proposes to support during the next fiscal year and shall set forth the justification for each such committee and the projected costs for that committee for the next fiscal year. In the case of any advisory committee that is to terminate in the year following the year in which the report is submitted pursuant to subsection (b) and that the Secretary proposes be continued by law, the Secretary shall include in the report a request for continuation of the committee and a justification and cost estimate for such continuation.

"(e) ADVISORY COMMITTEE DEFINED.—In this section, the term 'advisory committee' means an entity that is subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 183, as added by section 407(d), the following new item:

"184. Boards, commissions, and other advisory committees: limitations.".

TITLE V—COMMISSION ON DEFENSE ORGANIZATION AND STREAMLINING

SEC. 501. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on Defense Organization and Streamlining" (hereinafter in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of nine members, appointed as follows:

(1) Two members shall be appointed by the chairman of the Committee on National Security of the House of Representatives.

(2) Two members shall be appointed by the ranking minority party member of the Committee on National Security of the House of Representatives.

(3) Two members shall be appointed by the chairman of the Committee on Armed Services of the Senate.

(4) Two members shall be appointed by the ranking minority party member of the Committee on Armed Services of the Senate.

(5) One member, who shall serve as chairman of the Commission, shall be appointed by at least three of the Members of Congress referred to paragraphs (1) through (4) acting jointly.

(c) QUALIFICATIONS.—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in organization and management matters.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(e) INITIAL ORGANIZATION REQUIREMENTS.—(1) All appointments to the Commission shall be made not later than 30 days after the date of the enactment of this Act.

(2) The Commission shall convene its first meeting not later than 30 days after the date on which all members of the Commission have been appointed.

(f) SECURITY CLEARANCES.—The Secretary of Defense shall expedite the processing of appropriate security clearances for members of the Commission.

SEC. 502. DUTIES OF COMMISSION.

(a) IN GENERAL.—(1) The Commission shall examine the missions, functions, and responsibilities of the Office of the Secretary of Defense, the management headquarters and headquarters support activities of the military departments and Defense Agencies, and the various acquisition organizations of the Department of Defense (and the relationships among such Office, activities, and organizations).

(2) On the basis of such examination, the Commission shall propose alternative organizational structures and alternative allocations of authorities as it considers appropriate.

(b) DUPLICATION AND REDUNDANCY.— In carrying out its duties, the Commission shall identify areas of duplication and recommend options to streamline, reduce, and eliminate redundancies.

(c) SPECIAL REQUIREMENTS REGARDING OFFICE OF SECRETARY.—The examination of the missions, functions, and responsibilities of the Office of the Secretary of Defense shall include the following:

(1) An assessment of the appropriate functions of the Office and whether the Office of the Secretary of Defense or some of its component parts should be organized along mission lines.

(2) An assessment of the adequacy of the present organizational structure to efficiently and effectively support the Secretary in carrying out responsibilities in a manner that ensures civilian authority in the Department of Defense.

(3) An assessment of the extent of unnecessary duplication of functions between the Office of the Secretary of Defense and the Joint Staff.

(4) An assessment of the extent of unnecessary duplication of functions between the Office of the Secretary of Defense and the military departments.

(5) An assessment of the appropriate number of Under Secretaries of Defense, Assistant Secretaries of Defense, Deputy Under Secretaries of Defense, and Deputy Assistant Secretaries of Defense.

(6) An assessment of any benefits or efficiencies derived from decentralizing certain functions currently performed by the Office of the Secretary of Defense.

(d) SPECIAL REQUIREMENTS REGARDING HEADQUARTERS.—The examination of the missions, functions, and responsibilities of the management headquarters and headquarters support activities of the military departments and Defense Agencies shall include the following:

(1) An assessment on the adequacy of the present headquarters organization structure to efficiently and effectively support the mission of the military departments and the Defense Agencies.

(2) An assessment of options to reduce the number of personnel assigned to such headquarters staffs and headquarters support activities.

(3) An assessment of the extent of unnecessary duplication of functions between the Office of the Secretary of Defense and headquarters staffs of the military departments and the Defense Agencies.

(4) An assessment of the possible benefits that could be derived from further functional consolidation between the civilian secretariat of the military departments and the staffs of the military service chiefs.

(5) An assessment of the possible benefits that could be derived from reducing the number of civilian officers in the military departments who are appointed by and with the advice and consent of the Senate.

(e) SPECIAL REQUIREMENTS REGARDING ACQUISITION ORGANIZATIONS.—The examination of the missions, functions, and responsibilities of the various acquisition organizations of the Department of Defense shall include the following:

(1) An assessment of benefits of consolidation or selected elimination of Department of Defense acquisition organizations.

(2) An assessment of the opportunities to streamline the defense acquisition infrastructure that were realized as a result of the enactment of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) and the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) or as result of other acquisition reform initiatives implemented administratively during the period from 1993 through 1997.

(3) An assessment of such other defense acquisition infrastructure streamlining or restructuring options as the Commission considers appropriate.

(f) COOPERATION FROM GOVERNMENT OFFICIALS.—In carrying out its duties, the Commission should receive the full and timely cooperation of the Secretary of Defense and any other United States Government official responsible for providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

SEC. 503. REPORTS.

The Commission shall submit to Congress an interim report containing its preliminary findings and conclusions not later than March 15, 1998, and a final report containing its findings and conclusions not later than July 15, 1998.

SEC. 504. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION.—The Commission may secure directly from the Department of Defense and any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this title.

SEC. 505. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

(b) QUORUM.—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. 506. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission 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, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III

of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 507. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Secretary of Defense shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

SEC. 508. FUNDING.

Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for fiscal year 1998. Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from such amounts, the funds required by the Commission as stated in such certification.

SEC. 509. TERMINATION OF THE COMMISSION.

The Commission shall terminate 60 days after the date of the submission of its final report under section 503.

AMENDMENT TO H.R. 1119, AS REPORTED, OFFERED BY MR. CHAMBLISS OF GEORGIA

At the end of title X (page 360, after line 8), insert the following new section:

SEC. —. STUDY OF POLICY TO IMPLEMENT PARITY OF OFFICERS.

The Secretary of Defense shall submit to Congress a report on the differing percentages of officers among the Army, Navy, Air Force, and Marine Corps. The Secretary shall set forth in the report—

(1) a description of the reasons for differing percentages of officers and the justification for those differences; and

(2) a proposed policy for the implementation of a requirement to achieve parity of officers as a percentage of personnel among those military services, if a decision is made to achieve such parity.

At the end of title I (page 23, before line 7), insert the following new section:

SEC. —. REDUCTION IN AIR FORCE PROCUREMENT ACCOUNTS.

The amounts specified in paragraphs (1) through (4) of section 103 are hereby reduced by a total of $689,000,000, to be applied against such paragraphs on a pro rata basis.

PURPOSE AND SUMMARY

H.R. 1778, the Defense Reform Act of 1997, would make organizational, structural, business practice, acquisition, environmental and other policy reforms designed to permit the Department of Defense and Department of Energy defense programs to operate more effectively and efficiently.

LEGISLATIVE HISTORY

H.R. 1778 was introduced on June 4, 1997 and was referred to the Committee on National Security, the Committees on Commerce, and the Committee on Transportation and Infrastructure. The introduction of this bill culminated several months of work on the subject of reforming our nation's defense establishment, much of which coincided with work preparatory to consideration of the National Defense Authorization Act for Fiscal Year 1998. In recognition of the importance of defense reform, consideration of a separate bill, apart from the annual defense authorization bill was deemed appropriate.

On February 26, 1997, the Committee on National Security held a hearing to consider defense reform in general. Testimony was received from: Honorable John P. White, Deputy Secretary of Defense and Honorable Paul Kaminski, Under Secretary of Defense for Acquisition and Technology. A second hearing, focusing on H.R. 1778, was conducted on June 17, 1998.

On June 11, 1997, the Committee on National Security met to consider H.R. 1778. The committee agreed to an amendment in the nature of a substitute and ordered the bill, as amended, reported favorably to the House by voice vote.

EXPLANATION OF THE COMMITTEE AMENDMENT

The committee adopted an amendment in the nature of a substitute during the consideration of H.R. 1778. The remainder of the report discusses the bill, as amended.

PURPOSE AND BACKGROUND

Consistent with the recently concluded bipartisan balanced budget agreement, the fiscal year 1998 defense budget will represent the 13th straight year of real decline in defense spending. However, persistent shortfalls in critical defense modernization, readiness and quality of life accounts totaling billions of dollars over the Future Years Defense Program remain with no realistic prospect of solution within the existing budgetary framework. Exacerbating the situation, U.S. military forces have been reduced by one-third over the last ten years and the recently released Quadrennial Defense Review (QDR) recommends further force reductions, even though U.S. forces are busier than they have ever been.

The starkness of the realities facing the defense budget have dramatically increased the imperative to aggressively pursue reforms in how the Department of Defense is organized, resourced and conducts its day to day business. While the drive to achieve meaningful defense reform has existed for decades, the results have been mixed with only marginal improvements achieved.

During the 104th Congress, the committee initiated a number of reforms in the areas of acquisition policy, infrastructure and support services, and DOD organization. These reforms were intended to increase the overall efficiency of the Department while, at the same time, preserving the critical military combat capability.

In the acquisition policy area, this committee streamlined and made more cost efficient the acquisition process through reforms of a number of antiquated and restrictive federal acquisition laws.

The committee also mandated numerous studies and pilot programs in the area of infrastructure and support services in an effort to determine the benefits of shifting responsibility for providing certain support services from the public sector to the private. Given the Department's critical national security mission, the committee recognizes there will always be important support functions that must be performed, in part or in whole, by DOD employees. However, with spending on infrastructure and support services accounting for nearly 60 percent of the defense budget, the committee believes that reality should not stand in the way of moving aggressively to achieve greater efficiencies in non-critical support functions such as printing, payroll and travel, just to cite a few.

With respect to DOD organization, the committee is disappointed and concerned that its efforts to effect reform in this area, undertaken with a cooperative spirit, have been met with hostility and consistent non-compliance with statutory direction. The facts underlying the need for DOD organizational reform have not changed. In the same ten year period that active duty military forces have been reduced by 33 percent, the size of the staff and support personnel assigned to the Office of the Secretary of Defense has increased by over 40 percent. This trend of growth in the administrative support functions of the Department undermine the credibility of any internal effort to attack the widely recognized imbalance between combat forces and support infrastructure.

The committee acknowledges the QDR's review of defense reform issues and resulting initiatives. However, the committee notes with disappointment the lack of detail and specifics on implementation of these initiatives. Further, while the committee commends Secretary Cohen's commitment to taking on defense reform through the establishment of the Task Force on Defense Reform, the committee notes that the results of that new review will not be known until late this year.

This legislation builds on past committee initiatives to effect reform in the Department of Defense. It undertakes a number of organizational, structural, defense business practice, acquisition and policy reforms that will make the Department operate more efficiently.

The committee notes that, in implementing the provisions of this bill, the Secretary of Defense may apply any applicable workyear reductions or outsourcing actions resulting from sections 201, 202, 203, 205, 206, and 221 of this bill to the relevant headquarters reductions, acquisition workforce reductions and defense agency outsourcing goals required by sections 101, 102, and 206, respectively. Further, the committee is aware that there may be a "double counting" effect, whereby a position being eliminated may, for example, fall into both an acquisition workforce and headquarters definition. It is the committee's intent that reductions in the workforce resulting from this bill shall count toward all relevant affected functions or organizations.

SECTION-BY-SECTION ANALYSIS

TITLE I—ORGANIZATIONAL AND STRUCTURAL REFORMS

Section 101—Reduction in personnel assigned to management headquarters and headquarters support activities

This section would require a 25 percent reduction in management headquarters and headquarters support personnel, as defined in DOD Instruction 5100.73, over four years and implemented on an annual basis. In execution of this section, the Department would base its reductions upon personnel levels as of October 1, 1997. This section would also require the Secretary of Defense to examine DOD Instruction 5100.73 and make recommendations to Congress by January 15, 1998 on a revised directive that uniformly applies a DOD-wide definition of management headquarters and headquarters support functions.

The committee continues to be concerned with the size and cost of the Department's management headquarters and headquarters support activities. Ten years after the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433), the committee believes that the Department requires a further reexamination of the structure and size of its management headquarters and headquarters support activities to eliminate unnecessary duplication, outdated modes of organization, and wasteful inefficiencies.

The committee unsuccessfully sought to engage the Department in the 104th Congress on the appropriate size, composition and structure of its Military Department Headquarters staffs. The committee notes with concern that the Department has yet to submit the report and recommendations required by section 904 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201). While the Quadrennial Defense Review (QDR) has cited reducing and streamlining management headquarters and headquarters support activities as a priority, it has postponed implementation of reductions until another internal study reviews the issue and makes recommendations to the Secretary of Defense by August 29, 1997.

The committee is encouraged with the QDR's assertion that the reduction of layers of oversight at headquarters and operational commands and elimination of management and support personnel will yield 10,000 military and 14,000 civilian positions. The committee concurs with the need to drawdown unnecessary infrastructure and supports the Department in this regard. However, the committee is concerned the Department may not have an accurate understanding of the costs associated with management headquarters and headquarters support activities. Specifically, the committee questions whether the Department is relying upon the proper definition and whether the governing DOD directive is being adequately implemented. The committee is aware of several organizations that have not been reported by DOD as management headquarters or headquarters support, but appear to be performing those functions. These organizations include the Air Force Studies and Analyses Agency, U.S. Army's Forces Command Field Support Activity, Air Combat Command's Studies and Analyses Squadron,

and the U.S. Atlantic Command's Information Systems Support Group. Furthermore, the committee understands only a portion of the headquarters staffs of the DOD Inspector General and some Defense Agencies are reported by DOD as being management headquarters or headquarters support. In addition, none of the headquarters of the numbered air forces are currently reported (although they were in the past), and the Navy's Program Executive Offices apparently have not been reported in spite of the DOD directive requiring their inclusion.

The committee understands the Department intends to address the inadequacies of the current definition of management headquarters and headquarters support activities in its August 29, 1997 report to the Secretary and looks forward to specific recommendations to rectify this situation.

Section 102—Additional reduction in defense acquisition workforce

This section would require the Department of Defense to reduce its acquisition workforce by 42 percent by October 1, 2001, based upon projected fiscal year 1997 endstrength, in order to achieve the reductions necessary to take full advantage of legislated acquisition reforms, free up resources for other unfunded priorities and spur needed streamlining in the defense acquisition infrastructure. This provision would also require the Secretary of Defense to submit an implementation plan to Congress by January 15, 1998, containing any recommendations to include legislative proposals the Secretary considers necessary to fully achieve such reductions.

In the 104th Congress, the committee addressed specific concerns with the size and number of acquisition organizations and positions relative to the declining Department of Defense (DOD) budget and modernization program. Many of the acquisition reforms initiated by the committee were intended to ultimately reduce costs both to the private sector as well as the federal government. Full implementation of acquisition reforms can, and should, also result in fundamental changes and reductions in the structure of the Department's acquisition organizations. Specifically, it was the intent of the committee in relieving the Department from the burden of administering various antiquated and restrictive federal procurement laws that substantially fewer acquisition personnel would be required.

In seeking to establish a balance between the Department's diminished modernization program and the Department's acquisition bureaucracy, the committee supported moderate reductions in acquisition personnel in section 906 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) and section 902 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201). The committee understands that in implementing these reductions, the Department exceeded the Congressional mandates in fiscal year 1996 and plans to do so again in fiscal year 1997.

In addition to seeking overall reductions in personnel, the committee sought to engage the Department in determining the appropriate structure of its future acquisition workforce. Section 906 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) required the Department to examine consolida-

tion and reorganization options and report to Congress on its recommendations. Unfortunately, the report provided by the Department demonstrated no real effort to consider the various organizational and management options identified by the law and, not surprisingly, failed to propose significant alterations to the current acquisition infrastructure.

The committee notes that the 1995 Commission on Roles and Missions (CORM) sharply criticized the Department's acquisition organizations for maintaining redundant staffs and facilities for many types of common acquisition support activities. Therefore, the committee rejects the Department's conclusion in its report to Congress pursuant to section 906 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) that it has adequately assessed and implemented options for restructuring its acquisition organizations for the purposes of improved efficiency.

The committee strongly disagrees with the Department's assertion that increased downsizing of the workforce would place at risk the ability of the Department to equip combat forces and modernize against future threats. Rather, the committee regards the disproportionate size of the defense acquisition personnel workforce and infrastructure relative to the dramatically reduced procurement accounts as a serious drain upon current and future resources. The committee believes that the Department's continued refusal to restructure and streamline acquisition infrastructure will result in the continued squandering of limited resources urgently needed to address modernization, readiness and quality of life shortfalls. In order to obtain independent analysis of these issues and develop specific alternative organizational options, elsewhere in this report, the committee recommends a provision establishing the Commission on Defense Organization and Streamlining to examine these critical issues.

The committee understands the Department's current plan will result in an acquisition workforce of approximately 269,000 by October 1, 2000, using the definition included in section 906 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106). Further, the Department has stated plans to reduce its acquisition workforce in excess of 20,000 positions in fiscal year 1997. This section would result in a reduction of 95,000 acquisition positions in excess of the Department's current plan over the next four years and, specifically, reduce 40,000 personnel in fiscal years 1998 and 1999, and 22,000 in fiscal years 2000 and 2001.

The provision would exempt from the required reductions personnel who are employed at maintenance depots. In addition, the committee expects the personnel covered under the Defense Acquisition Workforce Improvement Act of 1990 (DAWIA) will be protected, to the extent possible, from overall reductions required in this section.

Section 103—Change in required reduction in annuity for certain defense acquisition personnel who are separated before age 55

This section would waive 50 percent of the early retirement penalty in fiscal year 1998 only for certain defense acquisition personnel who separate from the Department of Defense as a result of the reductions mandated by section 102 of this bill. It is the committee's intent to provide the Department of Defense with additional

tools to help facilitate the needed reductions in a manner which results in the most appropriate acquisition workforce.

The committee understands that this provision, and section 104 which follows, are separation inducements only applicable in the first year of a mandatory four year reduction. The committee believes the Department must have the necessary management tools to shape the acquisition workforce to conserve resources and to maximize efficiencies, and therefore, encourages the Department to seek similar relief in coming years. The committee intends to closely monitor the implementation of this section and section 104 to ensure equitable implementation across the agencies and military departments.

Section 104—Separation pay for defense acquisition personnel

This section would establish an additional, one-year buyout authority, separate and apart from existing Department of Defense (DOD) buyout authority, to provide separation pay incentives only to certain acquisition workforce employees impacted by the reductions contained within section 102 of this bill. The committee believes the Department should be provided appropriate management devices to implement these reductions equitably while retaining the necessary skill levels and organizational capacity.

Section 105—Personnel reductions in United States Transportation Command

This section would require the Secretary of Defense to reduce administrative duplication and inefficiencies in the United States Transportation Command (USTRANSCOM) and eliminate 1,000 positions across USTRANSCOM components in addition to the reductions identified in the fiscal year 1998 budget request.

Despite the creation of USTRANSCOM, studies by the General Accounting Office and USTRANSCOM, have reported that traffic management processes within the Department of Defense (DOD) remain fragmented, duplicative, and inefficient, primarily due to the lack of integrated and standard business practices. Personnel in each transportation component continue to perform similar and duplicative functions, resulting in different component staff separately negotiating rates and processing claims often related to the same shipment.

The committee is aware that USTRANSCOM is reviewing options to improve the management of customer requirements and billing through contracted studies and the Joint Mobility Control Group. The committee believes that the current transportation management issues require more aggressive solutions and encourages the use of standardized business practices that utilize leading edge technologies. In so doing, the committee believes that USTRANSCOM services will improve, transportation and financing systems will be easier to understand, and scarce resources will be used more efficiently throughout USTRANSCOM.

This provision, therefore, directs the Secretary of Defense to reduce the USTRANSCOM workforce to 66,238, or 1,000 workers below the current fiscal year 1997 levels. The Secretary should also ensure that the smaller components in USTRANSCOM do not re-

ceive a disproportionate share of this reduction. These reductions would not affect the Department's overall endstrength level.

TITLE II—DEFENSE BUSINESS PRACTICE REFORMS

SUBTITLE A—COMPETITIVE PROCUREMENT REQUIREMENTS

Section 201—Competitive procurement of finance and accounting services

This section would require the Secretary of Defense to competitively procure finance and accounting services currently provided by the Defense Finance and Accounting Service from among government and private sector sources.

The committee believes that there exists a robust capability for the provision of financial and accounting services in the private sector. There are no unique requirements of the Department of Defense for finance and accounting services that preclude the provision of such services by the private sector. In light of these considerations, the committee believes that a full and open competition between both government and private sector sources for the provision of such services is appropriate.

Section 202—Competitive procurement of services to dispose of surplus defense property

This section would direct the Secretary of Defense to competitively procure the Defense Reutilization and Marketing Service (DRMS) function of disposing of surplus property, by October 1, 1998, provide a plan, by March 1, 1998, for implementing this section and identify other DRMS functions that lend themselves to outsourcing.

Studies by both the Department of Defense (DOD) and the National Performance Review identified DRMS as a non-inherently governmental function to be considered for outsourcing. The committee is aware that the Defense Logistics Agency announced a streamlining strategy for DRMS in April 1997. Consistent with this strategy, the committee recommends competing all of the DRMS surplus property sales functions starting in fiscal year 1999. The sale of this property is the last step in the DRMS disposal process, following the proper coding, demilitarization, reutilization, transfer, and donation of property as performed by DRMS federal employees. Prior to this date, the committee directs the Secretary to allow the affected agency or programs to establish their most efficient organizational structure in order to compete with the private sector. The committee expects that standard management systems will be implemented in the surplus sales function to ensure adequate oversight of the function by DRMS, and that all necessary information should be made available to the private sector in order to fully support the sale of surplus property.

Section 203—Competitive procurement of functions performed by defense information systems agency

This section would require that the Secretary of Defense competitively procure all of the Defense Information System Agency's (DISA) unclassified, non-inherently governmental commercial and

industrial type activities by October 1, 1998, and provide a report, by March 1, 1998, on implementing this requirement.

The committee recognizes that DISA has played a crucial role in providing telecommunication and computer support to the Department of Defense. However, the combination of a deregulated telecommunications industry and mature computer sector means most of DISA's services are widely available in the private sector, often at significantly lower costs. Current DISA services duplicated by the private sector include data processing operations, automated systems support, technical support, help centers, software development, telecommunications, and executive software management. For these reasons, the committee directs the Secretary of Defense to compete these functions.

As part of the competition process, the Secretary shall allow the affected program to establish their most efficient organizational structure for the competitions. In order to ensure continuity of customer service, the committee recommends allowing DISA to complete all customer orders received by September 30, 1998.

Section 204—Competitive procurement of printing and duplication services

This section would extend, through fiscal year 1998, section 351 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) which directed the Defense Printing Service, now known as the Defense Automation and Printing Service (DAPS), to competitively procure at least 70 percent of its printing and duplication work from private sector sources. This section would also eliminate the current surcharges levied by the DAPS for handling printing orders that are sent to the Government Printing Office (GPO) or to private contractors.

Although DAPS successfully outsourced 70 percent of its services in fiscal year 1996, the committee has received few assurances that this success represents a permanent change in DAPS business practices. Additionally, the committee has learned that DAPS has placed a surcharge on all customer orders DAPS passes on to its contractors. According to the Air Force and Army, DAPS does not provide any direct value-added services for this surcharge.

Section 205—Competitive procurement of certain ophthalmic services

This section would require the Secretary of Defense to contract for ophthalmic services related to providing military members with single vision and multi-vision eyewear, except those services needed to meet readiness requirements or those that can be accomplished more cost-effectively by the Department of Defense. This provision is based on a recommendation made jointly by the U.S. Army Audit Agency and Naval Audit Service.

Section 206—Increased use by Defense agencies of contractors to perform commercial and industrial type functions

This section would require the Secretary of Defense to outsource a minimum of 33 percent of commercial services in the defense agencies by fiscal year 2000 and provide, by March 1, 1998, a plan

to accomplish the increased rate of outsourcing required by this section.

The committee is concerned that outsourcing opportunities are not being fully explored by defense agencies. According to the Department of Defense, the defense agencies outsourced only 10 percent of their commercial and industrial activities in fiscal year 1996 and estimate 14 percent of these activities will be outsourced in fiscal year 1997. In comparison, during fiscal year 1996 and estimated for fiscal year 1997, the military departments outsourced between 33 to 61 percent of their commercial activities.

SUBTITLE B—REFORM OF CONVERSION PROCESS

Section 211—Development of standard forms regarding performance work statement and request for proposal for conversion of certain operational functions of military installations

This section would require, by October 1, 1998, the creation of standard Office of Management and Budget Circular A–76 performance work statement (PWS) and request for proposal (RFP) requirements for each base operations function and service that the military departments have previously studied and currently outsource on an average of 50 percent or more across all the military departments. The standard PWS and RFP would render the A–76 requirements, as they relate to PWS and RFP, inapplicable at that time. The committee is aware that within the military services, there is little consistency for outsourcing non-inherently governmental base operations functions and services. Specifically, the military services conduct A–76 studies on activities that are similar, if not exactly the same, as extensively studied and outsourced functions in their own service or in the other military services. This practice unnecessarily duplicates effort and is costly.

As discussed in a General Accounting Office report, "Base Operations: Challenges Confronting DOD as It Renews Emphasis on Outsourcing," (GAO NSIAD 97–86), the development of standard "templates" based on previous A–76 studies of similar functional areas, would save the military services time and resources in outsourcing these functions. The following chart illustrates the base operations commercial activities that were outsourced in fiscal year 1996, highlighting the activities that were outsourced an average of 50 percent or more.

[Amounts in percent]

Base operating activity	Air Force	Army	Marine Corps [1]	Navy
Natural Resource	(2)	45	0	64
Advertising and Public Relations	(2)	0	0	1
Financial & Payroll	10	0	0	29
Debt Collection	(2)	0	(2)	1
Bus services	(2)	48	0	32
Laundry and Dry Cleaning	100	85	81	94
Custodial Services	100	88	82	86
Pest Management	23	22	0	37
Refuse Collection & Disposal Services	96	84	67	81
Food Services	88	88	42	39
Furniture Repair	0	10	(2)	100
Office Equipment Maintenance and Repair	100	75	18	100
Motor Vehicle Operation	51	16	0	11

[Amounts in percent]

Base operating activity	Air Force	Army	Marine Corps [1]	Navy
Motor Vehicle Maintenance	47	30	0	21
Fire Prevention & Protection	1.4	3	0	1
Military Clothing	(2)	24	58	0
Guard Service	5	22	0	14
Electrical Plants & Systems O&M	18	17	.02	4
Heating Plants & Systems O&M	0	38	.01	5
Water Plants and Systems O&M	(2)	32	.02	14
Sewage & Waste Plants O&M	14	27	0	18
Air Conditioning & Refrigeration Plants	7	15	30	37
Other Utilities O&M	21	25	0	24
Supply Operations	26	9	.03	12
Warehousing & Distribution of Publications	(2)	0	0	7
Transportation Management Services	25	6	.02	9
Museum Operations	(2)	4	0	0
Contractor-Operated Parts Stores & Civil Engineering Supply Stores	100	71	100	(2)
Other Installation Services	8	10	14	22

[1] Marine Corps figures are as of July 1996; all others are as of the end of fiscal year 1996.
[2] Not reported.

Note.—Percentages represent the portion of the workforce that is outsourced for a given function.
Source: GAO analysis of services' commercial activities inventory databases.

Section 212—Study and notification requirements for conversion of commercial and industrial type functions to contractor performance

This section would amend section 2461 of title 10, United States Code, to streamline the Department of Defense reporting to Congress on outsourcing activities. The committee believes that the current reporting requirements are burdensome to the point of impeding certain outsourcing reviews.

Section 213—Collection and retention of cost information data on contracted out services and functions

This section would require the Secretary of Defense to collect cost information on all outsourced activities for five years after a contract is awarded and create a permanent storage site for the data.

The committee is concerned with the poor and often lacking data collection for outsourced activities. Department of Defense (DOD) regulations currently require only three years collection of cost information data for all outsourced activities. According to the General Accounting Office, only the Department of the Air Force consistently follows the data collection guidelines. As a result of these inconsistencies, DOD rarely collects or keeps data on outsourced activities. The committee believes that data collection of previous and ongoing outsourcing activities within the DOD is crucial to identifying and developing accurate savings estimates of these activities.

SUBTITLE C—OTHER REFORMS

Section 221—Reduction in overhead costs of inventory control points

This section would require the Department of Defense (DOD) inventory control points (ICP) to reduce their overhead costs to eight percent of net sales by the end of fiscal year 2000, and provide a plan, by March 1, 1998, for achieving this goal.

The current costs of overhead within the DOD inventory control points is significantly greater than the private sector. Even after taking into account the need to maintain a wartime capacity, these costs are excessive. The committee believes that the ICP management and work processes are ideal business re-engineering candidates, given the extensive commercial market for these services and the recent improvements in private sector practices. In doing so, DOD is encouraged to review the General Accounting Office reports comparing DOD's inventory management practices with leading industry practices (GAO/NSIAD 96–5 and 96–156) for revising the way ICPs provide supply services. DOD should make extensive use of such commercial options as consolidation and outsourcing—particularly prime vendor and virtual prime vendor deliveries for most repairable, hardware, and consumable items. The use of prime and virtual prime vendors provide the benefit of lowering distribution, warehousing, and inventory costs, which reduces the customer rates in the supply and distribution business areas of the working capital funds.

Section 222—Consolidation of procurement technical assistance and electronic commerce technical assistance

This section would create the Procurement and Electronic Commerce Technical Assistance Program by combining services of the current Electronic Commerce Resource Centers (ECRC) and the Procurement Technical Assistance Centers (PTAC).

During the last couple of years, the acquisition community has instituted several reforms aimed at streamlining and removing barriers to the federal acquisition process. The passage of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–335) and the Federal Acquisition Reform Act of 1996 (Division D of Public Law 104–106), along with administrative actions taken by the Executive Branch to streamline the acquisition process have helped to fundamentally change the federal acquisition system. However, despite these reforms, little has changed for the DOD programs that support small business, particularly ECRC and PTAC.

Recent findings by the DOD Office of Inspector General (OIG) (Electronic Commerce Resource Centers, Report No. 97–090 and Department of Defense Procurement Technical Assistance Cooperative Agreement Program, report No. 97–007) argue that the ECRC "has not been efficient or cost effective in promoting" the use of electronic commerce or electronic data interchange technologies between small businesses and government organizations. The DOD–OIG also states that PTAC is not complying with its authorizing language in section 2415 of title 10, United States Code, regarding the requirement to award grants based on the comparative ranking of applicants and equitably distribute grants across the Defense Contract Administration Service regions. Finally, the OIG concluded that both ECRC and PTAC functions overlap with services provided elsewhere in the government. For these reasons, the committee believes the programs should be consolidated to improve service delivery and ensure the future of the program is consistent with the rest of the acquisition community.

Section 223—Permanent authority regarding conveyance of utility systems

This section would authorize the secretary of a military department to convey, with or without consideration, a utility system, or part of a utility system, to a municipal, private, regional, district, or cooperative utility company or other entity. Such utility systems may include electrical generation and supply systems, water supply and treatment systems, wastewater collection and treatment system, steam, hot or chilled water generation and supply systems, natural gas supply systems, and sanitary landfills or lands to be used for sanitary landfills. The provision would require the secretary concerned to submit a 21-day notice-and-wait announcement, to include a report containing an economic analysis of the proposed conveyance, to Congress prior to entering into any agreement to convey a utility system.

TITLE III—ENVIRONMENTAL REFORMS

SUBTITLE A—SUPERFUND REFORMS GENERALLY

Section 301—Revision of methods of remediation

This section would amend section 121 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or Superfund) (42 U.S.C. 9621) in order to eliminate the preference that exists in current law for the permanent treatment of contaminated sites undergoing environmental cleanup. Remedies selected at individual facilities would be required to be protective of human health and the environment and would be required to provide long term reliability at reasonable cost. Rather than a blanket preference for permanent treatment, this section would establish a preference for the cleanup of so called "hot spots," discrete areas within a facility that contain hazardous substances, pollutants, or contaminants in high concentrations that are mobile and pose a significant threat to human health or the environment. In addition, this section would authorize the President to establish cost-effective generic remedies and expedited cleanup procedures for categories of facilities.

Section 302—Requirement to consider reasonably anticipated future land use

This section would amend section 121 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) (42 U.S.C. 9621) to require that, before a cleanup remedy is selected at a Superfund site, the reasonably anticipated future land use of that site must be identified and taken into consideration. In identifying the reasonably anticipated future land use, the President would be required to take into account several factors, including views of the affected community, land use history of the facility, zoning requirements and potential for redevelopment. In the case of active military installations, these factors would be considered to the maximum extent practicable.

Section 303—Limitation on criminal liability of Federal officers, employees and agents

This section would amend section 120 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) (42 U.S.C. 9620) to provide that an officer, employee or agent of the United States shall not be held criminally liable for the failure to comply with a legal requirement to take a response action under CERCLA, Resource Conservation and Recovery Act (RCRA), or another state or federal law at federal facilities unless the officer, employee or agent fails to perform some assigned responsibility to ensure that the funds needed to perform the response action were requested or appropriated funds were available to pay for the response action.

Section 304—State role at Federal facilities

This section would amend section 120 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) (42 U.S.C. 9620) to redefine the role of states in the environmental cleanup of federal facilities. States would be permitted to apply to the Administrator of the Environmental Protection Agency (EPA) for authorization to control cleanup at federal facilities. Approval by the EPA would depend upon a determination that a state has the ability to and experience in the exercise cleanup authorities under CERCLA. In addition, the Administrator of the EPA would be authorized to withdraw authorities transferred to a state if the state exercised such authorities in a manner inconsistent with CERCLA or if the state lost its authorization to implement the corrective action provisions of the Resource Conservation and Recovery Act (RCRA). Interagency agreements between the states, EPA and a federal department or agency would be enforceable in federal court by the states, and a civil penalty of up to $25,000 per day would be authorized for violations of the law. In the event of state nonconcurrence in remedy selection, a formal dispute resolution process would be authorized. If no agreement can be reached concerning remedy selection, the state would be authorized to make a final determination, although the state would have to pay the incremental costs associated with implementation of the remedy chosen by the state.

SUBTITLE B—SUPERFUND AND OTHER ENVIRONMENTAL LAW REFORMS APPLICABLE TO DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY

Section 311—Standards for remedial actions conducted at Defense facilities not on the National Priorities List

Under section 2701 of title 10, United States Code, the Department of Defense is required to cleanup its contaminated sites, including those not on the National Priorities List (NPL), in accordance with the requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund), including all relevant and appropriate cleanup requirements. This section would amend section 2701 to provide that the Department of Defense need only follow those procedures associ-

ated with cleanup under CERCLA at Superfund sites listed on the NPL.

Section 312—Authority of Secretary of Defense and Secretary of Energy to terminate long-term operation and maintenance of remedial actions and corrective actions

This section would amend section 120 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) (42 U.S.C. 9620) to authorize the Secretary of Defense, in the case of a defense facility, and the Secretary of Energy, in the case of a Department of Energy facility, to terminate the long term operation and maintenance of a completed remedial action, in any case in which the Secretary and the Administrator of the Environmental Protection Agency (EPA) or the appropriate state authorities determine that the release or threat of release of hazardous substances, pollutants or contaminants at the site or facility is sufficiently remediated so as to pose no further danger to human health and the environment.

Section 313—Notification to Congress of costs of Department of Energy Environmental Compliance Agreements

This section would provide that the Secretary of Energy may not enter into an environmental compliance agreement, or agree to a major modification of such an agreement, until at least 90 legislative days after the secretary submits to Congress information about the total cost of carrying out the agreement or modifications thereto, projected milestone costs and the anticipated date of completion of performance milestones, an estimate of the annual budgetary authority and outlays associated with implementation of the agreement or modification, and an estimate of the cost of any monetary penalties that may be assessed in the event of noncompliance with the agreement. Environmental compliance agreements are interagency agreements entered into pursuant to section 120(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Section 314—Clean Air Act Standards for certain military operations

This section would continue Clean Air Act exemptions granted for property owned or operated by the armed forces by the Administrator of the Environmental Protection Act or by states under state implementation plans, despite the promulgation of new Clean Air Act standards relating to ozone and particulate matter. This provision is intended to ensure recognition of the importance of military necessity and the imperative not to handicap military operations, such as those involving live fire exercises or off-road training, that may cause temporary nonattainment of air quality standards.

Section 315—Application of Solid Waste Disposal Act to stored military munitions

This section would amend the Solid Waste Disposal Act (42 U.S.C. 6924) to clarify the authority of the Administrator of the Environmental Protection Agency to exempt unexpended military

munitions from regulation under that Act upon a finding that such munitions are subject to management under another federal law or regulation which is sufficient to ensure protection of human health and the environment.

TITLE IV—MISCELLANEOUS REFORMS

Section 401—Long-term charter contracts for acquisition of auxiliary vessels for the Department of Defense

This section would remove several restrictions placed on the Secretary of Defense that currently impede his ability to enter into contracts for the long-term charter of ships built in the United States to meet Department of Defense (DOD) auxiliary fleet requirements. Specifically, this section would grant the Secretary of the Navy general and permanent authority to enter into contracts for the long term charter of certain classes of logistics, sealift and other support vessels. The Secretary would, however, be required to receive Congressional authorization to enter into contracts for specific vessels. It would also remove the requirement to include the termination liability in the budget request for a 20-year lease or charter, would allow the Secretary to request funds to cover only the annual lease payment of a vessel in the fiscal year in which the payment will actually be made, and would eliminate the role of the Office of Management and Budget in reviewing DOD long-term charter proposals.

By removing these and other restrictions, the Secretary would be able to enter into long-term charters for DOD auxiliary ships which have been built with private sector funds. This program would be virtually identical to the highly successful build and charter program which was used to provide the Marine Corps with its maritime prepositioning ships in the mid-1980s and the Military Sealift Command (MSC) with its T–5 tankers. It would offer the opportunity to replace the aging fleet of MSC auxiliary ships and to replace the prepositioned ammunition container ships for the Army and Air Force in a timely manner.

Section 402—Fiber optics based telecommunications linkage of military installations

This section would require the Secretary of Defense to competitively procure and install a dedicated fiber-optics-based network telecommunication service at a minimum of one high military density locale, and report by March 1, 1998 on the implementation of this section.

The communications market has witnessed a rapid change in the last decade. Driven by such proven technologies as fiber-optics and semiconductors, this change has also significantly reduced the cost of telecommunication services while providing greater flexibility and security. Fiber-optics technology, in particular, is used extensively for telecommunications services by the nation's intelligence agencies and to upgrade the base telecommunications infrastructure at four Marine Corps bases in fiscal year 1998.

The committee is aware that fiber-optics technology can also be used to create continuous telecommunication links in areas where there are several similar Department of Defense (DOD) users. Such

links could eliminate all Federal Communication Commission (FCC) regulated tolls for communication between the DOD customers and reduce the access tolls for local and long distance calls. In August 1996, the Department of the Navy implemented a pilot study linking, by fiber-optics, the telecommunications services at eleven installations in the Norfolk, Virginia area. An April 1997 Department of the Navy audit report concluded that improved management and services related to this pilot could generate an estimated $21 million in savings, or 22 percent of total costs, over the next six years.

The committee is concerned that DOD has not demonstrated sufficient vision and planning to take full advantage of these cost-effective technologies and a deregulated telecommunications market. Therefore, this section would require the Secretary of Defense to compete among both regulated and unregulated companies for the installation, in at least one area within the United States that contains multiple military facilities and installations, a fiber-optics based telecommunications network linking identified military facilities and installations and achieve operational capability for this network on or before September 30, 1999. The committee is aware that such networks are capable of providing all forms of communication including voice telephony, data applications, video teleconferencing, imaging, and video transmission. The committee believes that the Secretary, in contracting for this fiber-optics telecommunications network, should take advantage of the range of capabilities of this technology wherever feasible and affordable.

Section 403—Repeal of requirement for contractor guarantees on major weapon systems

This section would repeal section 2403 of title 10, United States Code, which requires that a contract for the production of a weapon system contain written guarantees unless a waiver is obtained at the Assistant Secretary of Defense level. It also requires Congressional notification in certain circumstances.

Based on work performed by the General Accounting Office and other analysis, the committee is convinced that this provision has not contributed to the effective protection of the taxpayer's interest. To the contrary, the body of evidence supports the conclusion that this provision has led to sizable expenditures by the Department of Defense in the course of purchasing contractor guarantees with little or no concomitant benefit in return. In recommending the repeal of this provision, however, the committee is cognizant of the continuing ability of the Secretary of Defense to pursue contractor guarantees on weapon system acquisitions where it is determined that such an arrangement would protect the government's interest and encourages the Secretary to take such a step wherever warranted.

Section 404—Requirements relating to micro-purchases of commercial items

This section would impose a limitation on the use of contracts or purchase orders for commercial items of a value equal to or below the micro-purchase threshold of $2,500 unless a member of the Senior Executive Service or a general or flag office makes a written

determination such a contract is necessary. The provision would also grant the Secretary of Defense the discretion to prescribe regulations specifying any further circumstances that may necessitate the use contracts or purchase orders below the micro-purchase threshold.

The committee is aware that the Department of Defense has not taken advantage of the authorities provided by the Federal Acquisition and Streamlining Act of 1994 (Public Law 103–712) in dispensing with the administrative burden associated with transactions which occur at or below the micro-purchase threshold. While representing the bulk of the contract actions processed by the Department's financial and contract management bureaucracy, such purchases constitute a small fraction of the value of transactions executed by the Department on an annual basis. The committee believes that aggressive implementation of the micro-purchase threshold authority and of this provision could yield significant savings in eliminating a portion of the administrative overhead associated with defense purchases.

Section 405—Availability of simplified procedures to commercial item procurements

This section would amend existing law to modify the circumstances under which a contracting officer could utilize simplified procedures for the procurement of commercial items. Currently, the authority to utilize simplified procedures above the simplified acquisition threshold of $100,000 is limited by a requirement for the contracting officer to make a determination that "only" commercial items will be proposed for a given procurement. Given that this kind of prospective determination is difficult to make, the restriction serves as an impediment to utilizing above-threshold simplified procedures as intended by the Clinger-Cohen Act of 1996 (Division D of Public Law 104–106). This situation is particularly critical given that this authority for above-threshold simplified procedures was extended by Congress on a three-year test basis. Therefore, the committee believes it is critical that the Department be afforded a realistic opportunity to implement the flexibility and potential benefits realized through the use simplified procedures for commercial item procurements above the simplified acquisition threshold in order to determine whether such authority should be considered on a more permanent basis.

Section 406—Termination of the Armed Services Patent Advisory Board

This section would terminate the Armed Services Patent Advisory Board and transfer its functions to the Defense Technology Security Administration (DTSA). The Armed Services Patent Advisory Board is currently responsible for coordinating security reviews of patent applications to determine if they contain sensitive technical information, the public release of which would be detrimental to national security. In performing this function, the Board fulfills the role assigned to the Department of Defense under chapter 17 of title 35, United States Code. The Patent Advisory Board is an unfunded program and as such, is staffed with personnel from the legal offices of the military departments.

The committee notes that DTSA carries out nearly the same technology security review function when reviewing export license applications to determine if the technologies involved would harm national security if exported to foreign entities. In fact, DTSA and the Patent Advisory Board confer with many of the same technical experts at field activities of the military departments. The DTSA staff possesses technical knowledge that enable it to prescreen items before resorting to military field activities for analyses. A DTSA review can therefore be more expeditious than reviews coordinated by the Patent Advisory Board, since Board personnel are primarily legal staff members with limited knowledge of defense technologies. While the committee recognizes that as an unfunded program the Board's termination would not necessarily result in cost savings, the committee believes that transfer of the security review function to DTSA would result in more expeditious and thorough reviews.

Section 407—Coordination of Department of Defense criminal investigations and audits

This section would authorize the Department of Defense (DOD) Criminal Investigative Service's Board on Investigations with the Assistant Secretary of Defense for Command, Control, Communications and Intelligence as executor. This provision would also create a similar board for the audit agencies with the DOD Undersecretary for Defense (Comptroller) as its executor.

The committee commends the DOD criminal investigative services on their efforts to increase coordination, reduce duplication, and improve the overall management of resources through the Board on Investigations and the Regional Fraud Working Groups. The committee believes the creation of a Board on Audit would generate the same benefits, allowing DOD to better handle the increasing workload from the Chief Financial Officers Act and the changing accounting systems. The committee directs the Secretary of Defense to finalize the working guidance for the operation of both boards no later than December 31, 1997. The committee believes that DOD is best served by a productive and coordinated effort between the service departments and the DOD Office of Inspector General.

Section 408—Department of Defense boards, commissions, and advisory committees

This section would eliminate, by December 31, 1998, all governing authorities for Department of Defense (DOD) advisory committees other than those established in the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) or subsequent authorizations. This provision would also require DOD to submit to Congress a report and a legislative proposal, due March 1, 1998, identifying advisory committees that warrant support and including justification and projected costs associated with specific advisory committees.

The committee is aware the Department has, in response to Presidential Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," reduced discretionary boards and commissions by almost one-third since 1993. In compliance with

section 1054 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106), the Department submitted a report to Congress on the merits of remaining DOD boards and commissions. The Department failed, however, to propose any significant further elimination of its advisory committees. The committee notes the current 53 discretionary and statutorily established boards and commissions, to include the Advisory Group on Electron Devices, Armed Forces Epidemiological Board, and Inland Waterways Users Board, will cost an estimated $16.2 million in fiscal year 1997. The committee is concerned that many of the Department's remaining statutory and discretionary boards and commissions may have outlived their original purpose.

The committee recognizes the value of readily available expertise in the execution of the Department's duties. Accordingly, this section would allow the Department of Defense to establish advisory committees for one year or less in duration without Congressional authorization for the stated purpose of examining issues critical to national security.

TITLE V—COMMISSION ON DEFENSE ORGANIZATION AND STREAMLINING

OVERVIEW

The post-Cold War global security environment has witnessed dramatic reductions in the size and capability of the U.S. military force structure while the organizational composition of the Department, especially at the management level, has remained largely unchanged. Since 1987, the Army has lost eight active divisions, the Navy has decommissioned three carriers and over 200 ships, and the Air Force has cut 12 active and five reserve tactical wings. Notably, 1997 active duty personnel levels are actually equivalent to 1950 pre-Korean War levels. Meanwhile, from 1985 to 1996, the Office of the Secretary increased its staff 40 percent, military department headquarters continue to maintain redundant staffs, and, in spite of a 70 percent drop in procurement accounts since 1985, the Department's acquisition infrastructure has remained largely static.

The committee maintains that the Department currently has sufficient authority to reorganize and restructure itself but has demonstrated little willingness to pursue such reforms. Not since the passage of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) has the defense establishment undergone significant scrutiny and reform.

To address these trends, the committee undertook a number of initiatives during the 104th Congress to encourage and compel the Department to focus on these matters and arrive at its own options and solutions. The committee deliberately chose not to legislate specific prescriptive remedies on the belief that the Department was better suited to develop such detail on its own. Therefore, the committee provided the Department with broad guidance and, where possible, relief from existing statutory limitations and dictates on organizational matters. To the committee's continuing disappointment, the Department's response to these efforts has ranged from passive resistance to outright defiance of statutory di-

rection. After two years of attempting a preferred approach of cooperation and collaboration, the committee finds itself no further along in effecting the necessary change in the Department's management and organizational structure.

Section 501—Establishment of commission

In an effort to increase understanding and provide the Congress with implementation options for reforming the Department of Defense, this subtitle would establish a commission to be known as the "Commission on Defense Reorganization and Streamlining." The committee believes an independent commission would serve to further the cause of fundamental and much-needed defense organizational reform. The commission would consist of nine members who are private citizens with knowledge and expertise in organization and management matters. Two members would be appointed by the chairman of the House National Security Committee, two members would be appointed by the ranking member of the House National Security Committee, two members would be appointed by the chairman of the Senate Armed Services Committee, and two members would be appointed by the ranking member of the Senate Armed Services Committee.

This section would also provide for three of the four appointing chairmen and ranking members to designate a commission chairman. In addition, this section provides for filling vacancies, and describes the initial organizational requirements of the commission. It would require that all members of the commission be required to hold appropriate security clearances. The committee notes, however, that it is not the intent of this subsection to disqualify those individuals who do not currently hold clearances but who could be provided appropriate clearances in a short period of time. The committee expects that in such circumstances the government would move to secure the necessary clearances as expeditiously as possible.

Section 502—Duties of commission

This section would establish the duties of the commission, which would be to make recommendations to increase overall organizational effectiveness of the Department of Defense. The commission shall examine the missions, functions, responsibilities, and relationships therein, of the Office of the Secretary of Defense (OSD), the management headquarters and headquarters support activities of the Military Departments and the Defense Agencies, and the Department's various acquisition organizations and propose alternative organizational structures and alternative allocation of authorities where it deems appropriate. In carrying out its duties, the commission shall identify areas of duplication and recommend options to streamline, reduce, and eliminate redundancies.

This section would also require that the commission receive full and timely cooperation of any U.S. government official responsible for providing the commission with information necessary to the fulfillment of its responsibilities.

Section 503—Reports

This section would direct the commission to submit an interim report to the Congress by March 15, 1998, and a final report by July 15, 1998, on its findings and conclusions, with a provision for the incorporation of dissenting views.

Section 504—powers

This section would establish the commission's authority to hold hearings, take testimony, and receive evidence. The provision would also authorize the commission to secure any information from the Department of Defense and other federal agencies as the commission deems necessary to carry out its responsibilities.

Section 505—Commission procedures

This section would establish the procedures by which the commission shall conduct its business, describe the number of members required for a quorum and authorize the commission to establish panels for the purpose of carrying out the commission's duties.

Section 506—Personnel matters

This section would establish personnel policies for the commission. Members of the commission would serve without pay. The provision would authorize:

(1) Reimbursement of expenses, including per diem in lieu of subsistence, for travel in the performance of services for the commission;

(2) The chairman to appoint a staff director, subject to the approval of the commission, and such additional personnel as may also be necessary for the commission to perform its duties;

(3) The pay of the staff director and other personnel;

(4) Federal government employees to be detailed to the commission on a non-reimbursable basis and;

(5) The chairman to procure temporary and intermittent services.

Section 507—Miscellaneous administrative provisions

This section would allow the commission to use the United States mails and to obtain printing and binding services in accordance with the procedures used by other federal agencies. The provision would also require the Secretary of Defense to furnish the commission with administrative and support services, as requested, on a reimbursable basis.

Section 508—Funding

This section would require the Secretary of Defense to provide such sums as may be necessary for the activities of the commission in fiscal year 1998.

Section 509—Termination of the commission

This section would terminate the commission 60 days after the date of the submission of its report.

COMMITTEE POSITION

On June 11, 1997, the Committee on National Security, a quorum being present, approved H.R. 1778, as amended, by voice vote, a quorum being present.

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 1998 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(a) of the Congressional Budget Act of 1974 is as follows:

JUNE 13, 1997.

Hon. FLOYD SPENCE,
Chairman, Committee on National Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1778, the Defense Reform Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Jeanette Deshong and Valerie Barton.

Sincerely,

JUNE E. O'NEILL, *Director.*

H.R. 1778—Defense Reform Act of 1997

Summary: H.R. 1778 would reduce the number of personnel in the Department of Defense (DoD) who work on the acquisition of weapons and supplies, transportation, and management. It would allow competition between private and public entities for the performance of certain functions; allow long-term leases for certain naval vessels; and change other administrative practices in DoD. H.R. 1778 would also reform laws governing environmental programs as they apply to DoD and the Department of Energy (DOE).

Assuming that future appropriations are reduced to reflect the cost savings resulting from the bill, CBO estimates that spending subject to annual appropriations would decline by about $25 million in 1998 and by $15.5 billion over the 1998-2002 period. The bill would raise direct spending by $49 million in 1998 and $429 million over the five-year period. Because the bill would affect direct spending in 1998, pay-as-you-go procedures would apply.

H.R. 1778 contains one intergovernmental mandate as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). CBO estimates that there would be no costs to comply with this mandate

over the next five years. The bill contains no private-sector mandates.

Estimated cost to the Federal Government: The following table shows the estimated budgetary impact of H.R. 1778 except for the effects of titles II and IV, which CBO does not have enough information to estimate.

	By fiscal years, in millions of dollars—					
	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
By Fiscal Year, in Millions of Dollars						
Spending Under Current Law for Operation and Maintenance:						
Estimated authorization level [1]	90,880	90,880	90,880	90,880	90,880	90,880
Estimated outlays	90,720	90,070	90,170	90,188	90,236	90,305
Proposed Changes:						
Estimated authorization level	0	−26	−1,661	−3,406	−4,668	−5,889
Estimated outlays	0	−25	−1,612	−3,354	−4,630	−5,852
Spending Under the Bill for Operation and Maintenance:						
Estimated authorization level [1]	90,880	90,854	89,219	87,474	86,212	84,991
Estimated outlays	90,720	90,045	88,558	86,834	85,606	84,453
DIRECT SPENDING						
Spending Under Current Law for Federal Civilian Retirement:						
Estimated budget authority	41,906	43,851	45,994	48,246	50,590	53,092
Estimated outlays	41,822	43,764	45,903	48,151	50,490	52,989
Proposed Changes:						
Estimated budget authority	0	49	100	103	106	71
Estimated outlays	0	49	100	103	106	71
Spending Under the Bill for Federal Civilian Retirement:						
Estimated budget authority	41,906	43,900	46,094	48,349	50,696	53,163
Estimated outlays	41,822	43,813	46,003	48,254	50,596	53,060

Note.—The direct spending costs of this legislation fall within budget function 600 (income security). The authorization of appropriations falls within budget function 050 (national defense).

[1] The 1997 level is the amount appropriated for that year. Amounts for fiscal years 1998 through 2002 are subject to future appropriations action. The current law amounts shown here assume that appropriations under current law remain at the 1997 level. If they are adjusted for inflation, these amounts would grow at a rate of about $3 billion a year, but the estimated changes would remain as shown.

Title I—Defense personnel reforms

Title I would reduce the number of civilian personnel employed by DoD. By October 1, 2001, the number of personnel assigned to management headquarters and headquarters support activities could not exceed 75 percent of the number as of October 1, 1997. Similarly, section 102 would reduce the defense acquisition workforce by 124,000 over four years. Section 105 would limit the number of personnel employed by the United States Transportation Command (TRANSCOM) to 66,238, which is 1,000 lower than current end strength projections for 1997.

Current and projected end strengths for military personnel are close to the minimum levels required by current law. Therefore, CBO assumes that under title I civilian employees would leave the workforce while military personnel would be reassigned to other activities within DoD. Thus, all separation costs and subsequent salary savings derive from reductions in civilian employment levels. To determine how many civilians would leave employment, CBO assumes that military and civilian positions in management headquarters and TRANSCOM would be eliminated in the same proportion. Because the acquisition workforce is composed primarily of civilians, CBO assumes that civilians would comprise nearly all of

the reduction required by section 102. In total, CBO estimates that DOD's civilian workforce would be reduced by nearly 130,000 over the four-year period, relative to the number of civilian employees on October 1, 1997. This estimate shows the savings from reducing the workforce by about 100,000 employees, assuming that a reduction of about 30,000 will occur under current law consistent with the Administration's plans.

In 1998, spending subject to appropriations would be lower by about $26 million—a fraction of the ultimate savings because separation costs would nearly offset savings to DoD from having fewer employees. In 2002, however, the proposed workforce reductions would produce savings of nearly $6 billion.

CBO expects that at first more junior personnel earning about $43,000 annually would leave the workforce. After a two-year transition period, the savings for each cohort would reflect the current average compensation, which CBO estimates would average about $53,000 per person in 1998 dollars. After 5 years, when all consolidations and reorganizations are complete, DoD would achieve full savings from all personnel reductions.

CBO estimates that termination costs would offset some of the savings in the first few years. The estimate assumes that about 4 percent of the workforce voluntarily leaves employment each year. The other departing employees would receive a one-time severance payment of about $23,000 in 1998 dollars. This estimate is based on severance packages reported by DoD and other federal agencies for personnel who are not eligible for retirement.

Most civilian separations would occur through a reduction in force that would make former employees eligible for separation benefits. In addition, the bill specifies other benefits for personnel eligible to retire. In fiscal year 1998, section 103 would allow the Secretary of Defense to offer senior civilian members of the acquisition workforce who are between ages 50 and 55 a higher annuity than under current law. Under current law, such retirees would have their annuity reduced by 2 percentage points for every year they are younger than 55 years of age. The bill would lower that reduction to 1 percent per year. Eligible personnel would have the option of retiring with the higher annuity or retiring under current law and receiving separation pay of $25,000.

CBO estimates that about 3,300 senior personnel would retire early under the bill, at an average retired pay of $29,000 in 1998. Direct spending costs of this provision—for additional annuity payments—would be about $100 million per year through 2001. Because those personnel would reach their normal retirement age by 2003, CBO estimates that those costs would decrease to about $71 million in 2002.

Title II—Defense business practices reforms

Title II would open several activities within DoD to competitive procurement from private and public entities; set certain requirements for the process of engaging contractors to perform functions currently carried out by government employees; and mandate efficiencies in certain logistic functions. CBO estimates that these provisions would lead to some budgetary savings, but cannot estimate the amount. The activities targeted by these provisions employ a

significant portion of DOD's employees and cost several billion dollars each year. Thus budgetary effects that are small in percentage terms could still represent significant amounts in dollar terms. Because the bill would postpone some competitions until organizations within DoD could be reconfigured, any savings would not occur immediately. Continued government supervision or regulation of contractors would also tend to reduce savings if the competitions lead to greater provision of goods and services by the private sector.

Title II would allow DoD to convey all or part of government-owned utility systems to other public or private entities in exchange for cash payments or lower utility rates. This provision would represent an asset sale and direct spending because DoD would be allowed to spend the proceeds. Receipts and spending would offset each other, however, for no net budgetary effect. Nevertheless, both the receipts from any sale and utility charges that are below DOD's current costs could reduce the need for appropriated funding. Based on criteria established in the 1998 budget resolution, CBO has determined that proceeds from these asset sales should be counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, the proceeds of asset sales are not counted for pay-as-you-go purposes, and only the additional spending would be recorded on the pay-as-you-go scorecard. CBO does not have enough information to estimate these budgetary impacts.

Title III—Defense environmental reforms

Title III would amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), commonly known as the Superfund Act, which governs the cleanup of sites contaminated with hazardous substances—including federally owned sites where routine operations have ceased. Subtitle A would establish new procedures for the Environmental Protection Agency (EPA) to use when selecting appropriate remedial actions (cleanup methods) at Superfund sites. This section also would allow states to apply to EPA for authorization to assume all federal responsibilities for overseeing the cleanup of federally owned Superfund sites. Finally, Subtitle B would exempt certain DoD facilities from CERCLA's cleanup requirements.

CBO estimates that enactment of H.R. 1778 could reduce the cost of individual Superfund cleanups, but would not lead to a reduction in total CERCLA-related federal costs for several years. EPA is already attempting to implement some of the changes proposed by the bill, such as a consideration of future land use, using presumptive remedies, and a greater role for states in the program. Moreover, we believe that any cost savings achievable at individual federal Superfund projects would be applied to the enormous backlog of federal and nonfederal sites waiting to be addressed.

The Departments of Energy and Defense (DOE and DoD) are responsible for most of the government's efforts to clean up hazardous waste. Together these agencies have identified thousands of sites that must be decontaminated and restored. These include former nuclear weapons manufacturing facilities that rank among the nation's most challenging and complex cleanup efforts because

of the combined presence of radioactive and other hazardous wastes at these sites. Funding for DOE and DoD Superfund activities in 1997 is about $3.7 billion. Of this amount, roughly 60 percent funds remedial actions, while the remainder funds investigations and studies.

In addition, the Department of the Interior and the Forest Service face large potential Superfund cleanup liabilities. These agencies do not anticipate incurring significant remediation costs until after 2000.

The changes this bill would make in the process of selecting remedies could reduce the cost of Superfund cleanup efforts at federally owned sites. These changes, however, would not dramatically affect spending at sites where cleanup work is underway because remedies have already been selected at those sites. Most of the changes in the Superfund program that would be made by Title III could affect cleanup spending at federal sites where remedial actions will commence in two to four years. Thus, significant cost savings at individual federal sites would not begin immediately. Furthermore, the backlog of federal sites with hazardous wastes requiring cleanup is so large that any savings attributable to reductions in the cost of Superfund remedies at individual sites would probably not lead to a reduction in total federal spending for cleanups for many years.

It is also unlikely that enactment of H.R. 1778 would lead to a reduction in EPA's Superfund budget. While the changes in the remedy selection process could reduce the cost of Superfund cleanup efforts at nonfederal sites, most such expenses are borne by private parties who are responsible for these costs under CERCLA. In 1997, EPA received appropriations of $1.4 billion for its Superfund program. These funds cover the costs to administer the program, conduct research, enforce CERCLA, and clean up nonfederal sites when necessary. Enactment of H.R. 1778 could reduce the cost of cleaning up individual nonfederal sites. But total EPA spending over the next several years would probably not be affected because nearly 1,000 sites are currently on EPA's National Priorities List of Superfund sites requiring final cleanup action.

Title IV—Miscellaneous additional Defense reforms

Title IV contains provisions affecting long-term leases of naval vessels, telecommunications linkages, terms and procedures for some government purchases, and various boards, commissions, and advisory committees. By itself, this title would probably lead to budgetary savings because of provisions to terminate certain organizations and to modify procurement practices or requirements. The most significant budgetary impact, however, would stem from subsequent legislation on long-term ship leases that section 401 of this bill would anticipate.

Section 401 would authorize the Secretary of the Navy to enter into long-term commitments to either lease newly built surface vessels or contract for services employing such vessels; in either case the contract may include an option for the Navy to purchase the vessel. Contracts under this section would have to be specifically authorized in subsequent legislation, but section 401 would define how that legislation would be scored for the purposes of budgetary

enforcement. Under current practices, a contract authorized under this section would probably be considered either a capital lease or a lease-purchase arrangement. As a result, a large amount of budget authority would be required in the first year. If the arrangement is a lease-purchase, the budget would record all outlays in the first year for contracts on existing vessels and over the expected construction period for contracts to acquire new vessels. If section 401 is enacted, however, the subsequent authorization would be scored as a multiyear service contract or as an operating lease, thus reducing the amount of initial budget authority needed from the full cost of the contract to only the first-year cost.

Title V—Commission on Defense organization and streamlining

Title V would establish a nine-member commission to study ways to streamline various components of DoD, including the Office of the Secretary of Defense, the headquarters of the military departments, and the various acquisition-related organizations within DoD. The commission would issue a report by July 15, 1998, and would terminate its activities 60 days later.

Members of the commission would serve without pay, but would be reimbursed for travel and other expenses. The staff of the commission would consist of paid personnel appointed by its chairman, as well personnel detailed from federal agencies. The bill would not limit the size of the staff or the expenses that it could incur. Funding would be provided from 1998 appropriations for operations and maintenance of defense agencies. Assuming the commission has a 10-member staff, CBO estimates that costs, including overhead, would total about $1 million in 1998.

Pay-as-you-go considerations: 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. CBO estimates that enactment of H.R. 1778 would result in $49 million in additional direct spending in fiscal year 1998.

Estimated impact on State, local, and tribal governments: Title III of H.R. 1778 would exempt some DoD facilities from certain state remediation requirements. This preemption of authority would constitute a mandate on state governments under UMRA. However, CBO estimates that enactment of this provision would have no short-run impact on the budgets of state governments; it would simply lower the level of cleanup standards applicable to affected federal defense facilities. In the long run, it is possible that the lower standards could lead to additional state costs. At this point, CBO has no basis for estimating the timing or the magnitude of such potential costs.

Several other provisions in H.R. 1778, while not mandates, could affect the budgets of state and local governments. The bill would amend the federal Superfund program to expand the list of cleanup methods and allow for a site's future land use to be taken into consideration when selecting the level of cleanup. Should individual cleanups become less expensive as a result of these changes, state and local governments' share of cleanup costs could also go down. H.R. 1778 would allow states greater control over cleanups of hazardous waste sites on federal facilities. States could apply to the EPA for the authority to select cleanup methods and to enter into

agreements with federal agencies and other potentially responsible parties for the completion of the cleanups. Under current law, states can participate in the planning and selection of cleanup methods at federal facilities, but they cannot assume any of these responsibilities for the federal government.

In addition, the bill contains a provision that would make it easier for secretaries of military departments to convey utility systems under their jurisdiction to municipal, regional, or district utility companies or other entities by establishing permanent authority for such conveyances.

Estimated impact on the private-sector: H.R. 1778 contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Cost: Title I: Jeannette Deshong and Valerie Barton; Title II: Dawn Sauter; Title III: Kim Cawley; Title IV: Kent Christensen and Dawn Sauter; and Title V: Kent Christensen. Impact on State, Local, and Tribal Governments: Karen McVey and Pepper Santalucia. Impact on the Private Sector: Frances M. Lussier.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Pursuant to clause 7(a) of rule XIII of the Rules of the House of Representatives, 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 respect 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 and section 308(a)(1) of the Congressional Budget Act of 1974, 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. The bill does, however, authorize appropriations. Other fiscal features of this legislation are addressed in the estimate prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

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. 1778.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(l)(4) of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, Section 8 of the United States Constitution.

STATEMENT OF FEDERAL MANDATES

Pursuant to section 423 of Public Law 104–4, this legislation contains no federal mandates with respect to state, local, and tribal governments, nor with respect to the private sector. Similarly, the bill provides no federal intergovernmental mandates.

ROLL CALL VOTE

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 the committee's consideration of H.R. 1178. The record of this roll call vote is attached to this report.

The committee ordered H.R. 1178 reported to the House with a favorable recommendation by voice vote, a quorum being present.

COMMITTEE ON NATIONAL SECURITY
105TH CONGRESS
ROLL CALL

Amendment Number: 43 **Date: 06/11/97**

Strike Environmental Provisions **Offered By: Mr. Spratt**

Voice Vote **Ayes** **Nays**

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Spence		X		Mr. Dellums	X		
Mr. Stump		X		Mr. Skelton	X		
Mr. Hunter		X		Mr. Sisisky	X		
Mr. Kasich				Mr. Spratt	X		
Mr. Bateman		X		Mr. Ortiz	X		
Mr. Hansen		X		Mr. Pickett	X		
Mr. Weldon		X		Mr. Evans	X		
Mr. Hefley		X		Mr. Taylor	X		
Mr. Saxton		X		Mr. Abercrombie	X		
Mr. Buyer		X		Mr. Meehan	X		
Mrs. Fowler		X		Mr. Underwood	X		
Mr. McHugh		X		Ms. Harman		X	
Mr. Talent		X		Mr. McHale	X		
Mr. Everett		X		Mr. Kennedy	X		
Mr. Bartlett		X		Mr. Blagojevich	X		
Mr. McKeon		X		Mr. Reyes	X		
Mr. Lewis		X		Mr. Allen	X		
Mr. Watts		X		Mr. Snyder	X		
Mr. Thornberry		X		Mr. Turner	X		
Mr. Hostettler		X		Mr. Boyd	X		
Mr. Chambliss		X		Mr. Smith	X		
Mr. Hilleary		X		Ms. Sanchez	X		
Mr. Scarborough		X		Mr. Maloney	X		
Mr. Jones		X		Mr. McIntyre	X		
Mr. Graham		X		Mr. Rodriguez	X		
Mr. Bono		X					
Mr. Ryun		X					
Mr. Pappas		X					
Mr. Riley		X					
Mr. Gibbons		X					

Roll Call Vote Total **24 Aye** **30 Nay** **Present**

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):

TITLE 10, UNITED STATES CODE

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Subtitle A—General Military Law

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 3—GENERAL POWERS AND FUNCTIONS

§ 130a. Management headquarters and headquarters support activities personnel: limitation

(a) LIMITATION.—Effective October 1, 2001, the number of management headquarters and headquarters support activities personnel in the Department of Defense may not exceed the 75 percent of the baseline number.

(b) PHASED REDUCTION.—The number of management headquarters and headquarters support activities personnel in the Department of Defense—

(1) as of October 1, 1998, may not exceed 90 percent of the baseline number;

(2) as of October 1, 1999, may not exceed 85 percent of the baseline number; and

(3) as of October 1, 2000, may not exceed 80 percent of the baseline number.

(c) BASELINE NUMBER.—In this section, the term "baseline number" means the number of management headquarters and headquarters support activities personnel in the Department of Defense as of October 1, 1997.

(d) MANAGEMENT HEADQUARTERS AND HEADQUARTERS SUPPORT ACTIVITIES PERSONNEL DEFINED.—In this section:

(1) The term "management headquarters and headquarters support activities personnel" means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in management headquarters activities or in management headquarters support activities.

(2) The terms "management headquarters activities" and "management headquarters support activities" have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities", as in effect on November 12, 1996.

(e) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, management headquarters and headquarters support activities in order to comply with this section, the Secretary of Defense and the Secretaries of the military departments may not reassign functions in order to evade the requirements of this section.

(f) FLEXIBILITY.—If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 2001 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.

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CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

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§ 143. Office of the Secretary of Defense personnel: limitation

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—Effective October 1, 1999, the number of OSD personnel may not exceed 75 percent of the baseline number.

(b) PHASED REDUCTION.—The number of OSD personnel—

(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.

(c) BASELINE NUMBER.—For purposes of this section, the term "baseline number" means the number of OSD personnel as of October 1, 1994.

(d) OSD PERSONNEL DEFINED.—For purposes of this section, the term "OSD personnel" means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(e) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(f) FLEXIBILITY.—If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.

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CHAPTER 6—COMBATANT COMMANDS

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§ 165. Combatant commands: administration and support

(a) * * *

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(d) LIMITATION ON UNITED STATES TRANSPORTATION COMMAND PERSONNEL.—(1) Effective October 1, 1998, the number of United States Transportation Command personnel may not exceed 66,238.

(2) In this subsection, the term "United States Transportation Command personnel" means military and civilian personnel who are assigned to, or employed in, the United States Transportation Command (including the components of that combatant command).

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CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

Sec.
171. Armed Forces Policy Council.

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182. Board on Criminal Investigations.
183. Board on Audits.
184. Boards, commissions, and other advisory committees: limitations.

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§ 182. Board on Criminal Investigations

(a) ESTABLISHMENT.—(1) There is in the Department of Defense a Board on Criminal Investigations. The Board consists of the following officials:

(A) The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

(B) The head of the Army Criminal Investigation Command.

(C) The head of the Naval Criminal Investigative Service.

(D) The head of the Air Force Office of Special Investigations.

(2) To ensure cooperation between the military department criminal investigative organizations and the Defense Criminal Investigative Service, the Inspector General of the Department of Defense shall serve as a nonvoting member of the Board.

(b) FUNCTIONS OF BOARD.—The Board shall provide for coordination and cooperation between the military department criminal investigative organizations so as to avoid duplication of effort and maximize resources available to the military department criminal investigative organizations.

(c) REGIONAL WORKING GROUPS.—The Board shall establish working groups at the regional level to address and resolve issues of jurisdictional responsibility that may arise regarding criminal investigations involving a military department criminal investigative organization. A working group shall consist of managers or supervisors of the military department criminal investigative organizations who have the authority to make binding decisions regarding which organization will conduct a particular criminal investigation or whether a criminal investigation should be conducted jointly.

(d) AUTHORITY OF ASSISTANT SECRETARY.—In the event that a regional working group or the Board is unable to resolve an issue of investigative responsibility, the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall have the responsibility to make a final determination regarding the issue.

(e) MILITARY DEPARTMENT CRIMINAL INVESTIGATIVE ORGANIZATION DEFINED.—In this section, the term "military department criminal investigative organization" means any of the following:

(1) The Army Criminal Investigation Command.

(2) The Naval Criminal Investigative Service.

(3) The Air Force Office of Special Investigations.

§ 183. Board on Audits

(a) ESTABLISHMENT.—(1) There is in the Department of Defense a Board on Audits. The Board consists of the following officials:

(A) The Under Secretary of Defense (Comptroller).

(B) The Auditor General of the Army.

(C) The Auditor General of the Navy.

(D) The Auditor General of the Air Force.

(E) The director of the Defense Contract Audit Agency.

(2) To ensure cooperation between the defense auditing organizations and the Office of the Inspector General of the Department of Defense, the Inspector General of the Department of Defense shall serve as a nonvoting member of the Board.

(b) FUNCTIONS OF BOARD.—The Board shall provide for coordination and cooperation between the defense auditing organizations so as to avoid duplication of effort and maximize resources available to the defense auditing organizations.

(c) REGIONAL WORKING GROUPS.—The Board shall establish working groups at the regional level to address and resolve issues of jurisdictional responsibility that may arise regarding audits involving a defense auditing organization. A working group shall consist of managers or supervisors of the defense auditing organizations who have the authority to make binding decisions regarding which defense auditing organization will conduct a particular audit or whether an audit should be conducted jointly.

(d) AUTHORITY OF UNDER SECRETARY OF DEFENSE (COMPTROLLER).—In the event that a regional working group or the Board is unable to resolve an issue of jurisdictional responsibility, the Under Secretary of Defense (Comptroller) shall have the responsibility to make a final determination regarding the issue.

(e) DEFENSE AUDITING ORGANIZATION DEFINED.—In this section, the term "defense auditing organization" means any of the following:

(1) The Army Audit Agency.
(2) The Naval Audit Service.
(3) The Air Force Audit Agency.
(4) The Defense Contract Audit Agency.

§ 184. Boards, commissions, and other advisory committees: limitations

(a) LIMITATION ON ESTABLISHMENT.—No advisory committee may be established in, or administered or funded (in whole or in part) by, the Department of Defense except as specifically provided by law after the date of the enactment of this section.

(b) TERMINATION OF ADVISORY COMMITTEES.—Each advisory committee of the Department of Defense (whether established by law, by the President, or by the Secretary of Defense) shall terminate not later than the expiration of the four-year period beginning on the date of its establishment or on the date of the most recent continuation of the advisory committee by law.

(c) EXCEPTION FOR TEMPORARY ADVISORY COMMITTEES.—Subsection (a) does not apply to an advisory committee established for a period of one year or less for the purpose (as set forth in the charter of the advisory committee) of examining a matter that is critical to the national security of the United States.

(d) ANNUAL REPORT.—Not later than March 1 of each year (beginning in 1999), the Secretary of Defense shall submit to Congress a report on advisory committees of the Department of Defense. In each such report, the Secretary shall identify each advisory committee that the Secretary proposes to support during the next fiscal year and shall set forth the justification for each such committee and the projected costs for that committee for the next fiscal year. In the case of any advisory committee that is to terminate in the year following the year in which the report is submitted pursuant to subsection (b) and that the Secretary proposes be continued by law, the Secretary shall include in the report a request for continuation of the committee and a justification and cost estimate for such continuation.

(e) ADVISORY COMMITTEE DEFINED.—In this section, the term "advisory committee" means an entity that is subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

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PART II—PERSONNEL

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CHAPTER 87—DEFENSE ACQUISITION WORKFORCE

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SUBCHAPTER V—GENERAL MANAGEMENT PROVISIONS

SUBCHAPTER II—DEFENSE ACQUISITION POSITIONS

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§ 1721. Designation of acquisition positions

(a) * * *

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(c) MANAGEMENT HEADQUARTERS ACTIVITIES.—The Secretary also shall designate as acquisition positions under subsection (a) those acquisition-related positions which are in management headquarters activities and in management headquarters support activities. For purposes of this subsection, the terms "management headquarters activities" and "management headquarters support activities" have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities", dated [November 25, 1988] *November 12, 1996*.

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SUBCHAPTER V—GENERAL MANAGEMENT PROVISIONS

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§ 1765. Limitations on number of personnel

(a) LIMITATION.—Effective October 1, 2001, the number of defense acquisition personnel may not exceed the baseline number reduced by 124,000.

(b) PHASED REDUCTION.—The number of the number of defense acquisition personnel—

(1) as of October 1, 1998, may not exceed the baseline number reduced by 40,000;

(2) as of October 1, 1999, may not exceed the baseline number reduced by 80,000; and

(3) as of October 1, 2000, may not exceed the baseline number reduced by 102,000.

(c) BASELINE NUMBER.—For purposes of this section, the baseline number is the total number of defense acquisition personnel as of October 1, 1997.

(d) DEFENSE ACQUISITION PERSONNEL DEFINED.—(1) In this section, the term "defense acquisition personnel" means military and civilian personnel (other than civilian personnel described in paragraph (2)) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992).

(2) Such term does not include civilian employees of the Department of Defense who are employed at a maintenance depot.

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 137—PROCUREMENT GENERALLY

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§ 2304. Contracts: competition requirements

(a) * * *

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(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for—

(A) special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold; and

(B) special simplified procedures for purchases of property and services for amounts greater than the simplified acquisition threshold but not greater than $5,000,000 with respect to which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include **[**only**]** commercial items.

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(l) MICRO-PURCHASES.—(1) A contracting officer may not award a contract or issue a purchase order to buy commercial items for an amount equal to or less than the micro-purchase threshold unless a member of the Senior Executive Service or a general or flag officer makes a written determination that—

(A) the source or sources available for the commercial item do not accept a preferred micro-purchase method, and the contracting officer is seeking a source that does accept such a method; or

(B) the nature of the commercial item necessitates a contract or purchase order so that terms and conditions can be specified.

(2) In this subsection:

(A) The term "micro-purchase threshold" has the meaning provided in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

(B) The term "preferred micro-purchase method" means the use of the Government-wide commercial purchase card or any

other method for carrying out micro-purchases that Secretary of Defense prescribes in the regulations implementing this subsection.

(3) The Secretary of Defense shall prescribe regulations to implement this subsection. The regulations shall include such additional preferred methods of carrying out micro-purchases, and such exceptions to the requirement of paragraph (1), as the Secretary considers appropriate.

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CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

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[§ 2403. Major weapon systems: contractor guarantees

[(a) In this section:

[(1) The term "weapon system" means items that can be used directly by the armed forces to carry out combat missions and that cost more than $100,000 or for which the eventual total procurement cost is more than $10,000,000. Such term does not include commercial items sold in substantial quantities to the general public.

[(2) The term "prime contractor" means a party that enters into an agreement directly with the United States to furnish part or all of a weapon system.

[(3) The term "design and manufacturing requirements" means structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials, and finished product tests for the weapon system being produced.

[(4) The term "essential performance requirements", with respect to a weapon system, means the operating capabilities or maintenance and reliability characteristics of the system that are determined by the Secretary of Defense to be necessary for the system to fulfill the military requirement for which the system is designed.

[(5) The term "component" means any constituent element of a weapon system.

[(6) The term "mature full-scale production" means the manufacture of all units of a weapon system after the manufacture of the first one-tenth of the eventual total production or the initial production quantity of such system, whichever is less.

[(7) The term "initial production quantity" means the number of units of a weapon system contracted for in the first year of full-scale production.

[(8) The term "head of an agency" has the meaning given that term in section 2302 of this title.

[(b) Except as otherwise provided in this section, the head of an agency may not after January 1, 1985, enter into a contract for the production of a weapon system unless each prime contractor for the system provides the United States with written guarantees that—

[(1) the item provided under the contract will conform to the design and manufacturing requirements specifically delineated in the production contract (or in any amendment to that contract);

[(2) the item provided under the contract, at the time it is delivered to the United States, will be free from all defects in materials and workmanship;

[(3) the item provided under the contract will conform to the essential performance requirements of the item as specifically delineated in the production contract (or in any amendment to that contract); and

[(4) if the item provided under the contract fails to meet the guarantee specified in clause (1), (2), or (3), the contractor will at the election of the Secretary of Defense or as otherwise provided in the contract—

[(A) promptly take such corrective action as may be necessary to correct the failure at no additional cost to the United States; or

[(B) pay costs reasonably incurred by the United States in taking such corrective action.

[(c) The head of the agency concerned may not require guarantees under subsection (b) from a prime contractor for a weapon system, or for a component of a weapon system, that is furnished by the United States to the contractor.

[(d) Subject to subsection (e)(1), the Secretary of Defense may waive part or all of subsection (b) in the case of a weapon system, or component of a weapon system, if the Secretary determines—

[(1) that the waiver is necessary in the interest of national defense; or

[(2) that a guarantee under that subsection would not be cost effective.

The Secretary may not delegate authority under this subsection to any person who holds a position below the level of Assistant Secretary of Defense or Assistant Secretary of a military department.

[(e)(1) Before making a waiver under subsection (d) with respect to a weapon system that is a major defense acquisition program for the purpose of section 2432 of this title, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) notice in writing of his intention to waive any or all of the requirements of subsection (b) with respect to that system and shall include in the notice an explanation of the reasons for the waiver.

[(2) The committees referred to in paragraph (1) 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.

[(f) The requirement for a guarantee under subsection (b)(3) applies only in the case of a contract for a weapon system that is in mature full-scale production. However, nothing in this section pro-

hibits the head of the agency concerned from negotiating a guarantee similar to the guarantee described in that subsection for a weapon system not yet in mature full-scale production. When a contract for a weapon system not yet in mature full-scale production is not to include the full guarantee described in subsection (b)(3), the Secretary shall comply with the notice requirements of subsection (e).

[(g) Nothing in this section prohibits the head of the agency concerned from—

[(1) negotiating the specific details of a guarantee, including reasonable exclusions, limitations and time duration, so long as the negotiated guarantee is consistent with the general requirements of this section;

[(2) requiring that components of a weapon system furnished by the United States to a contractor be properly installed so as not to invalidate any warranty or guarantee provided by the manufacturer of such component to the United States;

[(3) reducing the price of any contract for a weapon system or other defense equipment to take account of any payment due from a contractor pursuant to subclause (B) of subsection (b)(4);

[(4) in the case of a dual source procurement, exempting from the requirements of subsection (b)(3) an amount of production by the second source contractor equivalent to the first one-tenth of the eventual total production by the second source contractor; and

[(5) using written guarantees to a greater extent than required by this section, including guarantees that exceed those in clauses (1), (2), and (3) of subsection (b) and guarantees that provide more comprehensive remedies than the remedies specified under clause (4) of that subsection.

[(h)(1) The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this section.

[(2) The regulations shall include the following:

[(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

[(B) Procedures for administering contractor guarantees.

[(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.

[(3) This section does not apply to the Coast Guard or to the National Aeronautics and Space Administration.]

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[CHAPTER 142—PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM]

CHAPTER 142—PROCUREMENT AND ELECTRONIC COMMERCE TECHNICAL ASSISTANCE PROGRAM

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§ 2412. Purposes

The purposes of the program authorized by this chapter are—

(1) to increase assistance by the Department of Defense to eligible entities furnishing procurement *and electronic commerce* technical assistance to business entities; and

(2) to assist eligible entities in the payment of the costs of establishing and carrying out new procurement *and electronic commerce* technical assistance programs and maintaining existing procurement *and electronic commerce* technical assistance programs.

§ 2413. Cooperative agreements

(a) * * *

(b) Under any such cooperative agreement, the eligible entity shall agree to sponsor programs to furnish [procurement technical assistance] *both procurement technical assistance and electronic commerce technical assistance* to business entities and the Secretary shall agree to defray not more than one-half of the eligible entity's cost of furnishing such assistance under such programs, except that in the case of a program sponsored by such an entity that provides services solely in a distressed area the Secretary may agree to furnish more than one-half, but not more than three-fourths, of such cost with respect to such program.

(c) In entering into cooperative agreements under subsection (a), the Secretary shall assure that at least one procurement *and electronic commerce* technical assistance program is carried out in each Department of Defense contract administration services region during each fiscal year.

(d) The Secretary shall use competitive procedures in entering into cooperative agreements under subsection (a).

§ 2414. Limitation

(a) IN GENERAL.—The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement *and electronic commerce* technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—

(1) in the case of a program operating on a Statewide basis, other than a program referred to in clause (3) or (4), $300,000;

(2) in the case of a program operating on less than a Statewide basis, other than a program referred to in clause (3) or (4), $150,000;

(3) in the case of a program operated wholly within one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $150,000; or

(4) in the case of a program operated wholly within more than one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $300,000.

(b) DETERMINATIONS ON SCOPE OF OPERATIONS.—A determination of whether a procurement *and electronic commerce* technical assistance program is operating on a Statewide basis or on less than a Statewide basis or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title shall be made in accordance with regulations prescribed by the Secretary of Defense.

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[§ 2417. Administrative costs]

§ 2417. Funding provisions

(a) LIMITATION ON USE OF FUNDS.—In any fiscal year the Secretary of Defense may use for the program authorized by this chapter only funds specifically appropriated for the program for that fiscal year.

[The Director**]** *(b) ADMINISTRATIVE COSTS.—The Director* of the Defense Logistics Agency may use, out of the amount appropriated for a fiscal year for operation and maintenance for the procurement *and electronic commerce* technical assistance program authorized by this chapter, an amount not exceeding three percent of such amount to defray the expenses of administering the provisions of this chapter during such fiscal year.

§ 2418. Authority to provide certain types of technical assistance

(a) The procurement *and electronic commerce* technical assistance furnished by eligible entities assisted by the Department of Defense under this chapter may include technical assistance relating to contracts entered into with (1) Federal departments and agencies other than the Department of Defense, and (2) State and local governments.

(b) An eligible entity assisted by the Department of Defense under this chapter also may furnish information relating to assistance and other programs available pursuant to the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992.

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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.
2462. Contracting for certain supplies and services required when cost is lower.
[2463. Reports on savings or costs from increased use of DOD civilian personnel.**]**
2463. Collection and retention of cost information data on contracted out services and functions.

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2474. Competitive procurement of information services.
2475. Military installations: use of standard forms in conversion process.

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§ 2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance

[(a) REQUIRED NOTICE TO CONGRESS.—A commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees may not be converted to performance by a private contractor unless the Secretary of Defense provides to Congress in a timely manner—

[(1) notification of any decision to study such function for possible performance by a private contractor;

[(2) a detailed summary of a comparison of the cost of performance of such function by Department of Defense civilian employees and by private contractor which demonstrates that the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

[(3) a certification that the Government calculation for the cost of performance of such function by Department of Defense civilian employees is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense civilian employees; and

[(4) a report, to be submitted with the certification required by paragraph (3), showing—

[(A) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 75 employees are involved, of contracting for performance of such function;

[(B) the effect of contracting for performance of such function on the military mission of such function; and

[(C) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense civilian employees, together with costs and expenditures which the Government will incur because of the contract.

[(b) CONGRESSIONAL NOTIFICATION OF DECISION TO CONVERT.—If, after completion of the studies required for completion of the certification and report required by paragraphs (3) and (4) of subsection (a), a decision is made to convert the function to contractor performance, the Secretary of Defense shall notify Congress of such decision.]

(a) NOTIFICATION OF CONVERSION STUDY.—(1) In the case of a commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees, the Secretary of Defense shall notify Congress of any decision to study the function for possible conversion to performance by a private contractor. The notification shall include information regarding the anticipated length and cost of the study.

(2) A study of a commercial or industrial type function for possible conversion to contractor performance shall include the following:

(A) A comparison of the performance of the function by Department of Defense civilian employees and by private contractor to determine whether contractor performance will result in savings to the Government over the life of the contract.

(B) An examination of the potential economic effect on employees who would be affected by the conversion, and the potential economic effect on the local community and the United States if more than 75 employees perform the function.

(C) An examination of the effect of contracting for performance of the function on the military mission of the function.

(b) NOTIFICATION OF CONVERSION DECISION.—If, as a result of the completion of a study under subsection (a) regarding the possible conversion of a function to performance by a private contractor, a decision is made to convert the function to contractor performance, the Secretary of Defense shall notify Congress of the conversion decision. The notification shall—

(1) indicate that the study conducted regarding conversion of the function to performance by a private contractor has been completed;

(2) certify that the comparison required by subsection (a)(2)(A) as part of the study demonstrates that the performance of the function by a private contractor will result in savings to the Government over the life of the contract;

(3) certify that the entire comparison is available for examination; and

(4) contain a timetable for completing conversion of the function to contractor performance.

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(d) WAIVER FOR SMALL FUNCTIONS.—Subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by **[**45 or fewer**]** *20 or fewer* Department of Defense civilian employees.

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(g) INCREASED USE OF CONTRACTORS BY DEFENSE AGENCIES.—(1) In each fiscal year beginning after September 30, 1999, not less than 33 percent of the commercial and industrial type functions of the Defense Agencies shall be performed by private contractors. The Secretary of Defense may achieve this goal before that date.

(2) In this subsection, the term "Defense Agency" means a program activity specified in the table entitled 'Program and Financing' for operation and maintenance, Defense-wide activities, in the budget of the President transmitted to Congress for fiscal year 1998 pursuant to section 1105 of title 31 (and any successor of such activity).

[(g)**]** *(h)* INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

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[§ 2463. Reports on savings or costs from increased use of DOD civilian personnel]

§ 2463. Collection and retention of cost information data on contracted out services and functions

(a) REQUIREMENTS IN CONNECTION WITH CONVERSION TO CONTRACTOR PERFORMANCE.—With respect to each contract converting the performance of a service or function of the Department of Defense to contractor performance (and any extension of such a contract), the Secretary of Defense shall collect, during the term of the contract or extension, but not to exceed five years, cost information data regarding performance of the service or function by private contractor employees. The Secretary shall provide for the permanent retention of information collected under this subsection.

[(a) IN GENERAL.—**]** *(b) REQUIREMENTS IN CONNECTION WITH RETURN TO EMPLOYEE PERFORMANCE.*—Whenever during a fiscal year **[**to which this section applies**]** *described in subsection (c),* the performance of a commercial or industrial type activity of the Department of Defense that is being performed by 50 or more employees of a private contractor is changed to performance by civilian employees of the Department of Defense, the Secretary of Defense shall maintain data in which a comparison is made of the estimated costs of (1) continued performance of such activity by private contractor employees, and (2) performance of such activity by civilian employees of the Department of Defense.

[(b) APPLICABILITY OF SECTION.—THIS SECTION**]** *(c) COVERED FISCAL YEARS.—Subsection (b)* applies only with respect to a fiscal year during which there is no statutory limit (commonly known as an "end strength") on the number of civilian employees that may be employed by the Department of Defense as of the last day of that fiscal year.

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§ 2474. Competitive procurement of information services

(a) COMPETITIVE PROCUREMENT REQUIRED.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure those commercial and industrial type functions performed before that date by the Defense Information Systems Agency. The Secretary shall establish procedures to conduct competitions among private-sector sources and the Defense Information Systems Agency and other interested Federal agencies.

(b) IMPROVEMENT OF COMPETITIVE ABILITY.—Before conducting a competition under subsection (a) for the procurement of information services that are being provided by a component of the Defense Information Systems Agency, the Secretary of Defense shall provide the component with an opportunity to establish its most efficient organization.

(c) EXCEPTION FOR CLASSIFIED FUNCTIONS.—(1) The requirement of subsection (a) shall not apply to the procurement of services involving a classified function performed by the Defense Information Systems Agency.

(2) In this subsection, the term "classified function" means any telecommunications or information services that—

(A) involve intelligence activities;

(B) involve cryptologic activities related to national security;

(C) involve command and control of military forces;

(D) involve equipment that is an integral part of a weapon or weapons system; or

(E) are critical to the direct fulfillment of military or intelligence missions (other than routine administrative and business applications, such as payroll, finance, logistics, and personnel management applications).

(d) REPORTING REQUIREMENTS.—Not later than 90 days after the end of each fiscal year in which services are competitively procured under subsection (a), the Secretary of Defense shall submit to Congress a report specifying the type and volume of such services procured by the Department of Defense during that fiscal year—

(1) from sources within the Department of Defense;

(2) from private-sector sources; and

(3) from other sources in the Federal Government.

§ 2475. Military installations: use of standard forms in conversion process

(a) STANDARDIZATION OF REQUIREMENTS.—(1) The Secretary of Defense shall develop standard forms (to be known as a "standard performance work statement" and a "standard request for proposal") to be used in the consideration for conversion to contractor performance of those commercial services and functions at military installations that have been converted to contractor performance at a rate of 50 percent or more, as determined under subsection (c).

(2) A separate standard form shall be developed for each service and function covered by paragraph (1) and the forms shall be used throughout the Department of Defense in lieu of the performance work statement and request for proposal otherwise required under the procedures and requirements of Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy).

(3) The Secretary shall develop and implement the standard forms not later than October 1, 1998.

(b) INAPPLICABILITY OF ELEMENTS OF OMB CIRCULAR A–76.—On and after October 1, 1998, the procedures and requirements of Office of Management and Budget Circular A–76 regarding performance work statements and requests for proposals shall not apply with respect to the conversion to contractor performance at a military installation of a service or function for which a standard form is required under subsection (a).

(c) DETERMINATION OF CONTRACTOR PERFORMANCE PERCENTAGE.—In determining the percentage at which a particular commercial service or function at military installations has been converted to contractor performance, the Secretary of Defense shall take into consideration all military installations and use the final estimate of the percentage of contractor performance of services and functions contained in the most recent commercial and industrial activity inventory database established under Office of Management and Budget Circular A–76.

(d) EXCLUSION OF MULTI-FUNCTION CONVERSION.—If a commercial service or function for which a standard form is developed

under subsection (a) is combined with another service or function (for which such a form is not required) for purposes of considering the services and functions at the military installation for conversion to contractor performance, a standard form developed under subsection (a) may not be used in the conversion process in lieu of the procedures and requirements of Office of Management and Budget Circular A–76 regarding performance work statements and requests for proposals.

(e) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to supersede any other requirements or limitations, specifically contained in this chapter, on the conversion to contractor performance of activities performed by civilian employees of the Department of Defense.

(f) MILITARY INSTALLATION DEFINED.—In this section, the term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility.

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CHAPTER 153—EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY

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§ 2573. Competitive procurement of services to dispose of surplus property

(a) COMPETITIVE PROCUREMENT OF SERVICES.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure services for the Department of Defense in connection with the disposal of surplus property at each site at which the Defense Reutilization and Marketing Service operates. The Secretary shall establish procedures to conduct competitions among private-sector sources and the Defense Reutilization and Marketing Service and other interested Federal agencies for the performance of all such services at a particular site.

(b) IMPROVEMENT OF COMPETITIVE ABILITY.—Before conducting a competition under subsection (a) for the procurement of services described in such subsection that are being provided by a component of the Defense Reutilization and Marketing Service, the Secretary of Defense shall provide the component with an opportunity to establish its most efficient organization.

(c) REPORTING REQUIREMENTS.—Not later than 90 days after the end of each fiscal year in which services for the disposal of surplus property are competitively procured under subsection (a), the Secretary of Defense shall submit to Congress a report specifying—

(1) the type and volume of such services procured by the Department of Defense during that fiscal year from the Defense Reutilization and Marketing Service and from other sources;

(2) the former sites of the Defense Reutilization and Marketing Service operated during that fiscal year by contractors (other than the Defense Reutilization and Marketing Service); and

(3) the total amount of any fees paid by such contractors in connection with the performance of such services during that fiscal year.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter the requirements regarding the identification or demilitarization of an item of excess property or surplus property of the Department of Defense before the disposal of the item.

(e) DEFINITIONS.—In this section:

(1) The term "surplus property" means any personal excess property which is not required for the needs and the discharge of the responsibilities of all Federal agencies and the disposal of which is the responsibility of the Department of Defense.

(2) The term "excess property" means any personal property under the control of the Department of Defense which is not required for its needs and the discharge of its responsibilities, as determined by the Secretary of Defense.

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CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NONEXCESS PROPERTY

§ 2688. Utility systems: permanent conveyance authority

(a) CONVEYANCE AUTHORITY.—The Secretary of a military department may convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. The conveyance may consist of all right, title, and interest of the United States in the utility system or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

(b) UTILITY SYSTEM DEFINED.—In this section, the term "utility system" includes the following:

(1) Electrical generation and supply systems.

(2) Water supply and treatment systems.

(3) Wastewater collection and treatment systems.

(4) Steam or hot or chilled water generation and supply systems.

(5) Natural gas supply systems.

(6) Sanitary landfills or lands to be used for sanitary landfills.

(7) Similar utility systems.

(c) CONSIDERATION.—(1) The Secretary of a military department may accept consideration received for a conveyance under subsection (a) in the form of a cash payment or a reduction in utility rate charges for a period of time sufficient to amortize the monetary

value of the utility system, including any real property interests, conveyed.

(2) Cash payments received shall be credited to an appropriation account designated as appropriate by the Secretary of Defense. Amounts so credited shall be available for the same time period as the appropriation credited and shall be used only for the purposes authorized for that appropriation.

(d) CONGRESSIONAL NOTIFICATION.—A conveyance may not be made under subsection (a) until—

(1) the Secretary of the military department concerned submits to the appropriate committees of Congress (as defined in section 2801(c)(4) of this title) a report containing an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) which demonstrates that the full cost to the United States of the proposed conveyance is cost-effective when compared with alternative means of furnishing the same utility systems; and

(2) a period of 21 days has elapsed after the date on which the report is received by the committees.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the military department concerned may require such additional terms and conditions in a conveyance entered into under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

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CHAPTER 160—ENVIRONMENTAL RESTORATION

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§ 2701. Environmental restoration program

(a) * * *

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(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

(1) * * *

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(4) EXEMPTION OF REMEDIAL ACTIONS CONDUCTED AT FACILITIES NOT LISTED ON THE NATIONAL PRIORITIES LIST FROM CERTAIN REQUIREMENT.—Notwithstanding subsection (a)(2) and paragraph (1) of this subsection, the requirement of section 121(d)(2) of CERCLA (42 U.S.C. 9621(d)(2)) relating to the attainment of a relevant and appropriate standard, requirement, criteria, or limitation shall not apply to a remedial action conducted at a facility under the jurisdiction of the Secretary of Defense if the facility is not listed on the National Priorities List under CERCLA.

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CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

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§ 2784. Competitive procurement of finance and accounting services

(a) COMPETITIVE PROCUREMENT REQUIRED.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure finance and accounting services for the Department of Defense, including nonappropriated fund instrumentalities of the Department of Defense. The Secretary shall establish procedures to conduct competitions among private-sector sources and the Defense Finance and Accounting Service and other interested Federal agencies. Such procedures shall not permit a component of the Defense Finance and Accounting Service to compete against any other component of the Defense Finance and Accounting Service to provide such finance and accounting services.

(b) IMPROVEMENT OF COMPETITIVE ABILITY.—Before conducting a competition under subsection (a) for the procurement of finance and accounting services that are being provided by a component of the Defense Finance and Accounting Service, the Secretary of Defense shall provide the component with an opportunity to establish its most efficient organization.

(c) REPORTING REQUIREMENTS.—Not later than 90 days after the end of each fiscal year in which finance and accounting services are competitively procured under subsection (a), the Secretary of Defense shall submit to Congress a report specifying the total volume of finance and accounting services procured by the Department of Defense during that fiscal year—

(1) from sources within the Department of Defense;

(2) from private-sector sources; and

(3) from other sources in the Federal Government.

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Subtitle C—Navy and Marine Corps

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PART IV—GENERAL ADMINISTRATION

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CHAPTER 631—SECRETARY OF THE NAVY: MISCELLANEOUS POWERS AND DUTIES

§ 7233. Auxiliary vessels: authority for long-term charter contracts

(a) AUTHORIZED CONTRACTS.—After September 30, 1998, the Secretary of the Navy, subject to subsection (b), may enter into a contract for the long-term lease or charter of a newly built surface vessel, under which the contractor agrees to provide a crew for the vessel for the term of the long-term lease or charter, for any of the following:

(1) The combat logistics force of the Navy.

(2) The strategic sealift program of the Navy.

(3) Other auxiliary support vessels for the Department of Defense.

(b) CONTRACTS REQUIRED TO BE AUTHORIZED BY LAW.—A contract may be entered into under this section with respect to specific vessels only if the Secretary is specifically authorized by law to enter into such a contract with respect to those vessels.

(c) FUNDS FOR CONTRACT PAYMENTS.—The Secretary may make payments for contracts entered into under this section using funds available for obligation during the fiscal year for which the payments are required to be made. Any such contract shall provide that the United States will not be required to make a payment under the contract (other than a termination payment, if required) before October 1, 2000.

(d) BUDGETING PROVISIONS.—Any contract entered into under this section shall be treated as a multiyear service contract and as an operating lease for purposes of any provision of law relating to the Federal budget and Federal budget accounting procedures, including part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.), and any regulation or directive (including any directive of the Office of Management and Budget) prescribed with respect to the Federal budget and Federal budget accounting procedures.

(e) TERM OF CONTRACT.—In this section, the term "long-term lease or charter" means a lease, charter, service contract, or conditional sale agreement with respect to a vessel the term of which (including any option period) is for a period of 20 years or more.

(f) OPTION TO BUY.—A contract entered into under the authority of this section may contain options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an amount not in excess of the unamortized portion of the cost of the vessels plus amounts incurred in connection with the termination of the financing arrangements associated with the vessels.

(g) DOMESTIC CONSTRUCTION.—The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies—

(1) shall have been constructed in a shipyard within the United States; and

(2) upon delivery, shall be documented under the laws of the United States.

(h) VESSEL CREWING.—The Secretary shall require in any contract entered into under this section that the crew of any vessel to

which the contract applies be comprised of private sector commercial mariners.

(i) CONTINGENT WAIVER OF OTHER PROVISIONS OF LAW.—A contract authorized by this section may be entered into without regard to section 2401 or 2401a of this title if the Secretary of Defense makes the following findings with respect to that contract:

(1) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

(2) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request funding for the contract at the level required to avoid contract cancellation.

(3) The use of such contract or the exercise of such option is in the interest of the national defense.

(j) SOURCE OF FUNDS FOR TERMINATION LIABILITY.—If a contract entered into under this section is terminated, the costs of such termination may be paid from—

(1) amounts originally made available for performance of the contract;

(2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or

(3) funds appropriated for those costs.

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Management

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SEC. 803. AUTHORITY TO WAIVE CERTAIN REQUIREMENTS FOR DEFENSE ACQUISITION PILOT PROGRAMS.

(a) AUTHORITY.—The Secretary of Defense may waive sections 2399, [2403,] 2432, and 2433 of title 10, United States Code, in ac-

cordance with this section for any defense acquisition program designated by the Secretary of Defense for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2430 note).

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[(c) CONTRACTOR GUARANTEES FOR MAJOR WEAPONS SYSTEMS.—The Secretary of Defense may waive the requirements of section 2403 of title 10, United States Code, for such a defense acquisition program if an alternative guarantee is used that ensures high quality weapons systems.]

[(d)] *(c)* SELECTED ACQUISITION REPORTS.—The Secretary of Defense may waive the requirements of sections 2432 and 2433 of title 10, United States Code, for such a defense acquisition program if the Secretary provides a single annual report to Congress at the end of each fiscal year that describes the status of the program in relation to the baseline description for the program established under section 2435 of such title.

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TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

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[SEC. 903. REDUCTION OF PERSONNEL ASSIGNED TO OFFICE OF THE SECRETARY OF DEFENSE.

[(a) PERMANENT LIMITATION ON OSD PERSONNEL.—Effective October 1, 1999, the number of OSD personnel may not exceed 75 percent of the baseline number.

[(b) PHASED REDUCTION.—The number of OSD personnel—

[(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

[(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.

[(c) BASELINE NUMBER.—For purposes of this section, the term "baseline number" means the number of OSD personnel as of October 1, 1994.

[(d) OSD PERSONNEL DEFINED.—For purposes of this section, the term "OSD personnel" means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

[(e) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

[(f) FLEXIBILITY.—If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with re-

spect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.

[(g) REPEAL OF PRIOR REQUIREMENT.—Section 901(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 401) is repealed.]

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SECTION 351 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

SEC. 351. COMPETITIVE PROCUREMENT OF PRINTING AND DUPLICATION SERVICES.

(a) REQUIREMENT FOR COMPETITIVE PROCUREMENT.—Except as provided in subsection (b), the Secretary of Defense shall, during fiscal years 1996 [and 1997] *through 1998* and consistent with the requirements of title 44, United States Code, competitively procure printing and duplication services from private-sector sources for the performance of at least 70 percent of the total printing and duplication requirements of the [Defense Printing Service] *Defense Automation and Printing Service*.

* * * * * * *

(d) PROHIBITION ON IMPOSITION OF SURCHARGE.—The Defense Automation and Printing Service may not impose a surcharge on any printing and duplication service for the Department of Defense that is procured from a source outside of the Department.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

TITLE I—HAZARDOUS SUBSTANCES RELEASES, LIABILITY, COMPENSATION

* * * * * * *

SEC. 120. FEDERAL FACILITIES.

(a) * * *

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[(g) TRANSFER OF AUTHORITIES.—Except for authorities which are delegated by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by executive order of the President or otherwise, to any other officer or employee of the United States or to any other person.]

(g) TRANSFER OF AUTHORITIES.—

(1) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under subsections (e) and (h) (other than subsection (h)(2)) of this section at any or all facilities owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government), including the authority—

(A) to review and approve all documents prepared in connection with any such investigation and study;

(B) to review and select remedies pursuant to subsection (e)(4)(A); and

(C) to enter into agreements with departments, agencies, and instrumentalities of the United States in accordance with subsection (e)(2), and to enter into consent decrees with other potentially responsible parties in accordance with subsection (e)(6).

(2) TRANSFER OF AUTHORITIES.—(A) The Administrator may enter into a contract or cooperative agreement to transfer some or all of the authorities described in paragraph (1) if the Administrator makes the determinations in subparagraph (B) and the State agrees to the conditions in subparagraph (C).

(B) The determinations to be made by the Administrator under subparagraph (A) are the following:

(i) The State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise.

(ii) The State demonstrates experience in exercising similar authorities.

(C) The conditions to be agreed to by the State under subparagraph (A) are the following:

(i) The State will not redelegate any of the authorities transferred to it by the Administrator, except as provided in the transfer agreement.

(ii) In the case of a State that is authorized to implement a State hazardous waste program pursuant to section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), the State will not exercise the authorities under that Act at the same time and at the same site as it exercises the authorities transferred to it under this subsection, with respect to a release or threat of release being addressed by the authorities transferred to it.

(iii) The State will exercise the authorities transferred to it with respect to each department, agency, and instrumentality of the United States in the same manner and to the same extent, both procedurally and substantively, as it exercises the authorities with respect to any non-Federal entity.

(3) EFFECT OF AUTHORIZATION UNDER SOLID WASTE DISPOSAL ACT.—In the review by the Administrator of an application of a State for transfer of authorities under this subsection, if the State is authorized to implement a State hazardous waste pro-

gram pursuant to section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), the following provisions apply:

(A) With respect to a State that is a signatory to an interagency agreement under subsection (e)(2) that is in effect on the effective date of this subsection, the Administrator, in making the determinations referred to in paragraph (2), shall accord substantial weight to the State's hazardous waste program authorization and the Administrator's findings in approving such authorization.

(B) With respect to a State whose authorization under such section 3006 includes authorization to implement the corrective action provisions of the Solid Waste Disposal Act, the Administrator shall approve the application and provide for the orderly transfer of authorities as expeditiously as possible, but in no case later than 6 months after the date of receipt of the application, unless the parties agree to another deadline.

(4) EFFECT OF TRANSFER.—Any State to which authorities are transferred under this subsection shall not be deemed to be an agent of the President but shall exercise such authorities in its own name, and the Administrator may transfer to a State only those authorities of the Administrator identified in this subsection.

(5) DEADLINES.—Except as provided in paragraph (3)(B), the Administrator shall make a determination on an application from a State under this subsection not later than 90 days after the date the Administrator receives the application.

(6) WITHDRAWAL OF AUTHORITIES.—

(A) IN GENERAL.—The Administrator may withdraw the authorities transferred under this subsection in whole or in part if the Administrator determines—

(i) that the State, in whole or in part, is exercising such authorities in a manner clearly inconsistent with the requirements of this Act; or

(ii) in the case of a State that was approved under paragraph (3)(B), that the State is no longer authorized to implement the corrective action provisions of the Solid Waste Disposal Act.

(B) REQUIREMENT OF WRITTEN NOTICE.—At least 90 days before withdrawing any such transferred authorities from a State, the Administrator shall provide to the State a written explanation of the reasons for the proposed withdrawal and afford an opportunity to the State to discuss the withdrawal and to propose actions to correct any deficiencies.

(7) ENFORCEMENT AND REMEDY SELECTION.—

(A) IN GENERAL.—An interagency agreement under this section between a State (including States which are parties to such agreements through the exercise of the Administrator's authorities pursuant to a cooperative agreement or contract under this subsection) and any department, agency, or instrumentality of the United States, shall be enforceable by the State or the Federal department, agency, or instrumentality in the United States district court for the district in which the facility is located. The district court shall

have the jurisdiction to enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination which has become effective under such agreement, and to impose any appropriate civil penalty provided for any violation of the agreement, not to exceed $25,000 per day.

(B) FAILURE TO CONCUR IN REMEDY SELECTION.—

(i) IN GENERAL.—At Federal facilities where the Administrator's authorities under subsection (e)(4) have been transferred to the State pursuant to this section, and the State does not concur in the remedy selection proposed by the Federal agency, the parties shall enter into dispute resolution as provided in the interagency agreement, provided that the final level for such disputes concerning remedy selection shall be to the head of the Federal department, agency, or instrumentality and the Governor of the State.

(ii) STATE REMEDY SELECTION.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor, the State may issue the final determination, except that the State shall pay or assure the payment of any additional costs attributable to carrying out the remedial action selected by the State.

(8) LIMITATION.—Except for authorities that are transferred by the Administrator to a State pursuant to this subsection, or that are transferred by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by Executive order of the President or otherwise, to any other officer or employee of the United States or to any other person. Except as necessary to specifically implement the transfer of the Administrator's authorities to a State pursuant to this subsection, nothing in this subsection shall be construed as altering, modifying, or impairing in any manner, or authorizing the unilateral modification of, any terms of any agreement, permit, administrative, or judicial order, decree, or interagency agreement existing on the effective date of this subsection. Any other modifications or revisions of an interagency agreement entered into under this section shall require the consent of all parties to such agreement, and absent such consent the agreement shall remain unchanged. Nothing in this subsection shall affect the exercise by a State of any other authorities that may be applicable to facilities in such State.

(k) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer,

employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

(2) appropriated funds were available to pay for the response action.

(l) TERMINATION OF LONG-TERM OPERATION AND MAINTENANCE.—The Secretary of Defense, with respect to any site or facility of the Department of Defense, and the Secretary of Energy, with respect to any site or facility of the Department of Energy, may terminate the long-term operation and maintenance of a completed remedial action in any case in which the Secretary determines, with the concurrence of the Administrator or appropriate State or local authorities, that the release or threat of release of hazardous substances, pollutants, or contaminants at the site or facility is no longer a threat to human health and the environment.

SEC. 121. CLEANUP STANDARDS.

(a) * * *

(b) GENERAL RULES.—[(1) Remedial actions in which treatment which permanently and significantly reduces the volume, toxicity or mobility of the hazardous substances, pollutants, and contaminants is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action where practicable treatment technologies are available. The President shall conduct an assessment of permanent solutions and alternative treatment technologies or resource recovery technologies that, in whole or in part, will result in a permanent and significant decrease in the toxicity, mobility, or volume of the hazardous substance, pollutant, or contaminant. In making such assessment, the President shall specifically address the long-term effectiveness of various alternatives. In assessing alternative remedial actions, the President shall, at a minimum, take into account:

[(A) the long-term uncertainties associated with land disposal;

[(B) the goals, objectives, and requirements of the Solid Waste Disposal Act;

[(C) the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous substances and their constituents;

[(D) short- and long-term potential for adverse health effects from human exposure;

[(E) long-term maintenance costs;

[(F) the potential for future remedial action costs if the alternative remedial action in question were to fail; and

[(G) the potential threat to human health and the environment associated with excavation, transportation, and redisposal, or containment.

The President shall select a remedial action that is protective of human health and the environment, that is cost effective, and that utilizes permanent solutions and alternative treatment tech-

nologies or resource recovery technologies to the maximum extent practicable. If the President selects a remedial action not appropriate for a preference under this subsection, the President shall publish an explanation as to why a remedial action involving such reductions was not selected.

[(2) The President may select an alternative remedial action meeting the objectives of this subsection whether or not such action has been achieved in practice at any other facility or site that has similar characteristics. In making such a selection, the President may take into account the degree of support for such remedial action by parties interested in such site.]

(1) METHODS OF REMEDIATION.—(A) Remedies selected at individual facilities shall be protective of human health and the environment over the long term. A remedial action may achieve protection of human health and the environment through—

(i) treatment that reduces the toxicity, mobility, or volume of hazardous substances, pollutants, or contaminants;

(ii) containment or other engineering controls to limit exposure;

(iii) a combination of treatment and containment; or

(iv) other methods of protection.

(B) The method or methods of remediation appropriate for a given facility shall be determined through the evaluation of remedial alternatives and the selection process under paragraph (2). When determining the appropriate remedial method, treatment is to be preferred for hot spots as defined under paragraph (2)(C).

(2) APPROPRIATE REMEDIAL ACTION.—

(A) IN GENERAL.—The President shall identify and select an appropriate remedy that minimizes exposures by comparing alternative remedies and balancing the following factors with respect to each such remedy:

(i) The effectiveness of the remedy, including its implementability.

(ii) The long-term reliability of the remedy, that is, its capability to achieve long-term protection of human health and the environment considering the preference for treatment of hot spots.

(iii) The short-term risk posed by the implementation of the remedy to the affected community, to those engaged in the cleanup effort, and to the environment.

(iv) The acceptability of the remedy to the affected community.

(v) The reasonableness of the cost of the remedy.

(vi) The results of any risk assessments conducted with respect to the remedy.

(vii) The costs, both direct and indirect, of the remedy.

(B) DEFERRAL OF REMEDIAL ACTION.—The President may defer the selection of a remedial action if the President determines that—

(i) the hazardous substance, pollutant, or contaminant can be contained in a manner sufficient to protect human health and the environment; and

(ii) an innovative technology is expected to be available in the near future that will provide a more cost-effective remedy.

(C) HOT SPOTS.—The following shall apply to the remediation of hot spots:

(i) For purposes of this section, the term 'hot spot' means a discrete area within a facility that contains hazardous substances, pollutants or contaminants (I) that are present in high concentrations, are highly mobile, and cannot be reliably contained; or (II) that would present a significant risk to human health or the environment. The President shall develop guidelines for the identification of hot spots. Such guidelines shall recommend appropriate field investigations that will not require extraordinarily complex or costly measures.

(ii) In determining an appropriate remedy for hot spots, the President shall consider the factors under subparagraph (A). With respect to the factor in clause (v) of subparagraph (A), the President shall use a higher threshold for evaluating the reasonableness of costs for hot spot treatment relative to the remediation of non-hot spot materials.

(iii) The President shall select a remedy requiring treatment of materials constituting hot spots to the maximum extent practicable, consistent with the protection of human health and the environment. In such instances, the President shall select an interim containment remedy for such hot spot subject to adequate monitoring and public reporting to ensure its continued integrity and shall review the interim containment remedy in accordance with subsection (c). When the appropriate treatment technology becomes available, as determined by the President, that remedy shall be considered in accordance with this section.

(iv) Notwithstanding the presence of a hot spot, the President may select a final containment remedy for hot spots at landfills and mining sites or similar facilities under the following circumstances:

(I) The hot spot is small relative to the overall volume of waste or contamination being addressed, the hot spot is not readily identifiable and accessible, and without the presence of the hot spot containment would have been selected as the appropriate remedy under subparagraph (A) for the larger body of waste or area of contamination in which the hot spot is located.

(II) The volume and areal extent of the hot spot is extraordinary compared to other facilities, and it is highly unlikely due to the size and other characteristics of the hot spot that any treatment technology will be developed that could be implemented at reasonable cost.

Where final containment for a hot spot is selected, the President shall publish an explanation of the basis for that decision.

(3) GENERIC REMEDIES.—In order to streamline the remedy selection process and to facilitate rapid voluntary action, the President shall establish, taking into account the reasonably anticipated future land uses at the facility and the factors enumerated in paragraph (1)(A)(i), cost-effective generic remedies for categories of facilities, and expedited procedures that include community involvement for selecting generic remedies at an individual facility. To be eligible for selection at a facility, a generic remedy shall be protective of human health and the environment at that facility. In appropriate cases, the President may select a generic remedy without considering alternatives to the generic remedy.

(4) INSTITUTIONAL CONTROLS.—Whenever the President selects a remedial action which relies on restrictions on the use of land, water, or other resources to achieve protection of human health and the environment, the President shall specify the nature of the restrictions required to achieve such protections, including restrictions on the permissible uses of land, prohibitions on specified activities upon the property, restrictions on the drilling of wells or the use of ground water, or restrictions on the use of surface water, and may ensure that such restrictions are incorporated into a hazardous substance easement. In reviewing remedial action alternatives which would require the use of such restrictions and providing opportunity for public comment on those alternatives, the President shall identify the nature of any institutional controls that would be required to implement such restrictions, known or anticipated affected persons, the likely duration of such restrictions, and the anticipated costs of acquiring any appropriate hazardous substance easements and enforcing the appropriate restrictions.

(5) LAND USE.—(A) Before selecting a remedy under subsection (a), the President shall identify the reasonably anticipated future uses of land at a facility as required by this Act. In identifying reasonably anticipated future land uses, the President shall consider factors that include the factors listed in subparagraph (B). In the case of a military installation that is not scheduled for closure or realignment, the President shall consider such factors to the maximum extent practicable.

(B) The factors referred to in subparagraph (A) are as follows:

(i) Views expressed by members of the affected community.

(ii) With respect to a Federal facility scheduled for closure or a portion of a Federal facility scheduled for transfer from the ownership or control of the Federal Government to another entity, any joint consensus recommendation of a technical review committee established for a facility of the Department of Defense pursuant to section 2705(c) of title 10, United States Code, a restoration advisory board established for such a facility pursuant to section 2705(d) of such title, a local land use redevelopment authority, and another appropriate State agency, or, with respect to a defense nuclear facility of the Department of Energy, a citizen advisory board.

(iii) The land use history of the facility and surrounding properties, the current land uses of the facility and surrounding properties, recent development patterns in the area where the facility is located, and population projections for that area.

(iv) Federal or State land use designations, including Federal facilities and national parks, State ground water or surface water recharge areas established under a State's comprehensive protection plan for ground water or surface water, and recreational areas.

(v) The current land use zoning and future land use plans of the local government with land use regulatory authority.

(vi) The potential for economic redevelopment.

(vii) The proximity of the contamination to residences, sensitive populations or ecosystems, natural resources, or areas of unique historic or cultural significance.

(viii) Current plans for the facility by the property owner or owners, not including potential voluntary remedial measures.

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SECTION 3004 OF THE SOLID WASTE DISPOSAL ACT

STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SEC. 3004. (a) * * *

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(u) CONTINUING RELEASES AT PERMITTED FACILITIES.—Standards promulgated under this section shall require, and a permit issued after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require, corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action. *The Secretary of Defense, with respect to any site or facility of the Department of Defense, and the Secretary of Energy, with respect to any site or facility of the Department of Energy, may terminate the long-term operation and maintenance of a completed corrective action in any case in which the Secretary determines, with the concurrence of the Administrator or appropriate State or local authorities, that the release of hazardous waste or constituents at the site or facility is no longer a threat to human health and the environment.*

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(y) MUNITIONS.—(1) * * *

(2) The Administrator shall exempt unexpended military munitions from regulation under this Act upon a finding by the Administrator that such military munitions are subject to management under another Federal law or regulation and that such other federal law or regulation is sufficiently protective of human health and the environment so as to make additional regulation under this Act duplicative or unnecessary.

[(2)**]** *(3)* For purposes of this subsection, the term "military munitions" includes chemical and conventional munitions.

SECTION 301 OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

(a) * * *

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(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for—

(A) * * *

(B) special simplified procedures for purchases of property and services for amounts greater than the simplified acquisition threshold but not greater than $5,000,000 with respect to which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include **[**only**]** commercial items.

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DISSENTING VIEWS

The reform package, developed by the committee in an effort to advance a discussion on possible reforms to the way in which the defense and energy departments conduct their business, simply could not pass environmental muster in my judgment. In addition, the White House, the Department of Defense, the Department of Energy and many state attorneys general, environmental and labor groups raised objections both with the substance of this package and with the process by which it was developed.

In this regard, it is regrettable that the committee failed to delete Title III, the environmental reform sections, when a motion by Mr. Spratt to strike the title was rejected by the committee.

Hearings in the National Security Committee on this package are deserved before action should proceed on the bill further.

RONALD V. DELLUMS.