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## DEPARTMENTAL DATA

The Department of Defense requested legislation, in accordance with the program of the President, as illustrated by the correspondence set out below:

### DEPARTMENT OF DEFENSE AUTHORIZATION REQUEST

DEPARTMENT OF DEFENSE,  
OFFICE OF GENERAL COUNSEL,  
*Washington, DC, June 29, 2001.*

Hon. J. DENNIS HASTERT,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: The Department of Defense proposes the enclosed draft legislation, "To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2002, and for other purposes."

This legislative proposal is part of the Department of Defense Legislative Program for the First Session of the 107th Congress and is necessary to carry out the President's budget plans for fiscal year 2002. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

WILLIAM J. HAYNES II,  
*General Counsel.*

Enclosures.

### MILITARY CONSTRUCTION AUTHORIZATION REQUEST

DEPARTMENT OF DEFENSE,  
OFFICE OF GENERAL COUNSEL,  
*Washington, DC, August 16, 2001.*

Hon. J. DENNIS HASTERT,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: The Department of Defense proposes the enclosed legislation relating to the operation and management of the Department of Defense. These proposals are part of the legislative program for the Department of Defense for the First Session of the 107th Congress and we urge their enactment.

Enclosed is legislation to authorize military construction and facility management for the military departments, the defense agencies, the North Atlantic Treaty Organization Security Investment

program, and the National Guard and Reserve components. We propose that the successful pilot program, the alternative authority for acquisition and improvement of military housing, be made permanent. We seek your authority to authorize the Secretaries of the military departments to convey surplus property, when appropriate, to state or local governments for conservation of natural resources. We propose a pilot program in which we can assign certain private sector personnel to the Department for a limited period so that we can take advantage of their skills while providing them knowledge of our processes and methods. We also propose that limitations on contracting for fire fighting and security guard services be eliminated so that the Department may contract for such support when appropriate for our military installations.

We seek the repeal of any limitations on the retirement or dismantlement of strategic nuclear delivery systems. This will enhance the President's flexibility to set strategic force structure for the defense of the United States. We propose the inclusion of government contractors in chemical weapons inspections at government-owned facilities under the Chemical Weapons Convention. We also request authority for the Secretary of a military department to promote fully-qualified officers to the grade of captain in the Army, Air Force or Marine Corps or Lieutenant in the Navy without convening a selection board.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of these initiatives for your consideration and the consideration of the Congress.

Sincerely,

DANIEL J. DELL'ORTO,  
*Principal Deputy General Counsel.*

Enclosures.

#### COMMITTEE POSITION

On August 1, 2001 the Committee on Armed Services, a quorum being present, approved H.R. 2586, as amended, by a vote of 58-1.

#### COMMUNICATIONS FROM OTHER COMMITTEES

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
*Washington, DC, August 14, 2001.*

Hon. BOB STUMP,  
*Chairman, Committee on Armed Services, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: This letter concerns the jurisdictional interest of the Committee on Transportation and Infrastructure in H.R. 2586, the Department of Defense Authorization Act for Fiscal Year 2002.

H.R. 2586, as ordered reported by the Committee on Armed Services, contains many provisions over which the Committee on transportation and Infrastructure has jurisdiction. As in previous bills, these include all sections that affect the pay, benefits, and per-

sonnel of the United States Coast Guard and the United States Coast Guard Reserve.

Our committee recognizes the importance of H.R. 2586 and the need for this legislation to move expeditiously. While we have a valid claim to jurisdiction over a number of provisions in the bill, including many that affect the United States Coast Guard, I do not intend to request a sequential referral of the bill. This is, of course, conditional on our mutual understanding that nothing in this legislation waives or affects the jurisdiction of the Transportation Committee, that every effort will be made to include any agreements worked out by our staffs as the bill is taken to the Floor, and that a copy of this letter and your response will be included in the Committee Report and as part of the record during consideration of the bill by the House.

The Committee on Transportation and Infrastructure also requests to be included as conferees on the provisions over which we have jurisdiction.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG, *Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
*Washington, DC, August 29, 2001.*

Hon. DON YOUNG,  
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of August 14, 2001 regarding H.R. 2586, the National Defense Authorization Act for Fiscal Year 2002.

I agree that the Committee on Transportation and Infrastructure has valid jurisdictional claims to certain provisions in this important legislation, and I am most appreciative of your decision not to request such a referral in the interest of expediting consideration of the bill. I agree that by foregoing a sequential referral, the Committee on Transportation and Infrastructure is not waiving its jurisdiction. Further, as you requested, this exchange of letters will be included in the Committee report on the bill.

Thank you for your cooperation in this matter.

Sincerely,

BOB STUMP, *Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON EDUCATION AND THE WORKFORCE,  
*Washington, DC, August 28, 2001.*

Hon. BOB STUMP,  
*Chairman, Committee on Armed Services, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for working with me in your development of H.R. 2586, the "National Defense Authorization Act for Fiscal Year 2002," specifically:

1. Section 341, "Assistance to Local Educational Agencies the Benefit Dependents of Members of the Armed Forces and Department of Defense Civilian Employees";

2. Section 342, "Availability of Auxiliary Services of Defense Dependents Education System for Dependents who are Home School Students";

3. Section 343, "Report Regarding Compensation for Teachers Employed in Teaching Positions in Overseas Schools Operated by the Department of Defense";

4. Section 509, "One-year Extension of Expiration Date for Certain Force Management Authorities";

5. Section 584, "Clarification of Military Recruiter Access to Secondary School Directory Information About Students."

As you know, these provisions are within the jurisdiction of the Education and the Workforce Committee. While I do not intend to seek sequential referral of H.R. 2586, the Committee does hold an interest in preserving its future jurisdiction with respect to issues raised in the aforementioned provisions and its jurisdictional prerogatives should the provisions of this bill or any Senate amendments thereto be considered in a conference with the Senate. We would expect to be appointed as conferees on these provisions should a conference with the Senate arise.

Again, I thank you for working with me in developing the amendments to H.R. 2586 and look forward to working with you on these issues in the future.

Sincerely,

JOHN BOEHNER, *Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC, August 31, 2001.*

Hon. BOB STUMP,  
*Chairman, Committee on Armed Services, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for working with me regarding H.R. 2586, the "National Defense Authorization Act for Fiscal Year 2002," which was referred to the Committee on Armed Services. As you know, the Committee on the Judiciary has a jurisdictional interest in this legislation, and I appreciate your acknowledgement of that jurisdictional interest. While the bill would be sequentially referred to the Judiciary Committee, I understand the desire to have this legislation considered expeditiously by the House; therefore, I do not intend to hold a hearing or markup on this legislation.

In agreeing to waive consideration by our Committee, I would expect you to agree that this procedural route should not be construed to prejudice the Committee on the Judiciary's jurisdictional interest and prerogatives on this or any similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future. The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over the provisions within the Committee's jurisdiction is in no way diminished or altered, and that the

Committee's right to the appointment of conferees during any conference on the bill is preserved. I would also expect your support in my request to the Speaker for the appointment of conferees from my Committee with respect to matters within the jurisdiction of my Committee should a conference with the Senate be convened on this or similar legislation.

Again, thank you for your cooperation on this important matter. I would appreciate your including our exchange of letters in your Committee's report to accompany H.R. 2586.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
*Washington, DC, August 31, 2001.*

Hon. F. JAMES SENSENBRENNER, Jr.,  
*Chairman, Committee on the Judiciary, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of August 31, 2001 regarding H.R. 2586, the National Defense Authorization Act for Fiscal Year 2002.

I agree that the Committee on the Judiciary has valid jurisdictional claims to certain provisions in this important legislation, and I am most appreciative of your decision not to request such a referral in the interest of expediting consideration of the bill. I agree that by foregoing a sequential referral, the Committee on the Judiciary is not waiving its jurisdiction. Further, as you requested, this exchange of letters will be included in the Committee report on the bill.

Thank you for your cooperation in this matter.

Sincerely,

BOB STUMP, *Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
*Washington, DC, August 31, 2001.*

Hon. BOB STUMP,  
*Chairman, Committee on Armed Services, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for an opportunity to review the text of H.R. 2586, the National Defense Authorization Act of 2002, for provisions which are within the jurisdiction of the Committee on Resources. Among these provisions are those dealing with benefits for the National Oceanic and Atmospheric Administration Corps, environmental review, public lands, and territories of the United States.

Because of the continued cooperation and consideration you have afforded me and my staff in developing these provisions, I will not seek a sequential referral of H.R. 2586 based on their inclusion in the bill. Of course, this waiver is not intended to prejudice any future jurisdictional claims over these provisions or similar language.



I also reserve the right to seek to have conferees named from the Committee on Resources on these provisions, should such a conference become necessary.

Once again, I appreciate working with you and your staff on these matters, and look forward to urging my colleagues to support and pass H.R. 2586.

Sincerely,

JAMES V. HANSEN, *Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC, September 4, 2001.*

Hon. BOB STUMP,  
*Chairman, Committee on Armed Services, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: On August 1, 2001, the Committee on Armed Services ordered reported H.R. 2586, the National Defense Authorization Act for Fiscal Year 2002. As ordered reported by the Committee on Armed Services, this legislation contains a number of provisions that fall within the jurisdiction of the Committee on Energy and Commerce. These provisions include the following:

Section 509, one-year extension of expiration date for certain force management authorities.

Section 514, improved disability benefits for certain reserve component members.

Subtitle A of title 6—Pay and Allowances.

Section 611, one-year extension of certain bonus and special pay authorities for reserve forces.

Section 612, one-year extension of certain bonus and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists.

Section 2906, environmental compliance and environmental response requirements.

Section 3131, termination date of Office of River Protection, Richland, Washington.

Section 3132, organizational modifications for National Nuclear Security Administration.

Section 3201, Defense Nuclear Facilities Safety Board Authorization.

I understand that two provisions within my jurisdiction that are in the bill as ordered reported will be deleted in the reported version of H.R. 2586: (1) section 316, concerning the authority of the Department of Defense to accept and store mercury and (2) section 712, listing requirements regarding a Presidential task force. Further, I understand that section 3134, dealing with the disposition of surplus plutonium at the Savannah River Site in Aiken, South Carolina, will be modified to make clear that it only deals with military surplus plutonium, and therefore will not fall within my Committee's jurisdiction.

Recognizing your interest in bringing this legislation before the House expeditiously, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill based on the provisions listed above. By agreeing not to seek a sequential referral,

the Committee on Energy and Commerce does not waive its jurisdiction over these provisions or any other provisions of the bill that may fall within its jurisdiction. In addition, the Committee on Energy and Commerce reserves its right to seek conferees on any provisions within its jurisdiction which are considered in the House-Senate conference, and asks for your support in being accorded such conferees.

I request you include this letter as part of the report on H.R. 2586 and as part of the Record during consideration of this bill by the House.

Sincerely,

W.J. "BILLY" TAUZIN, *Chairman.*

## FISCAL DATA

Pursuant to clause 3(d) 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 2002 and the following four years. The results of such efforts are reflected in the cost estimate prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974, which is included in this report pursuant to clause 3(c)(3).

### CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

AUGUST 22, 2001.

Hon. BOB STUMP,  
*Chairman, Committee on Armed Services, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2586, the National Defense Authorization Act for Fiscal Year 2002.

The CBO staff contact is Kent Christensen. If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

DAN L. CRIPPEN.

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Summary: H.R. 2586 would authorize appropriations totaling \$343 billion for fiscal year 2002 for the military functions of the Department of Defense (DoD) and the Department of Energy. It also would prescribe personnel strengths for each active duty and selected reserve component of the U.S. armed forces. CBO estimates that appropriation of the authorized amounts for 2002 would result in additional outlays of \$338 billion over the 2002–2006 period.

The bill also contains provisions that would raise the costs of discretionary defense programs over the 2003–2006 period. CBO estimates that those provisions would require appropriations of \$9 billion over those four years.

The bill contains provisions that would reduce direct spending, primarily through revised payment rates for some services offered under the Tricare for Life program and certain asset sales. We estimate that the direct spending savings resulting from provisions of H.R. 2586 would total \$384 million over the 2002–2006 period and \$355 million over the 2002–2011 period. Those totals include esti-

mated net receipts from asset sales of \$44 million over the next five years and \$20 million over 10 years. Because it would affect direct spending, the bill would be subject to pay-as-you-go procedures.

The bill contains several intergovernmental mandates as defined by the Unfunded Mandates Reform Act (UMRA). CBO estimates, however, that the costs of complying with those mandates would not be significant and would not exceed the threshold as specified in UMRA. The bill also contains provisions that affect DoD's Tricare long-term care program and would increase costs in state Medicaid programs. The remaining provisions of the bill are either excluded under Section 4 of UMRA, which excludes from the application of that act any legislative provisions that are necessary for the national security, or contain no mandates.

#### *Estimated Cost to the Federal Government*

The estimated budgetary impact of H.R. 2586 is shown in Table 1. Most of the costs of this legislation fall within budget function 050 (national defense).

TABLE 1.—BUDGETARY IMPACT OF H.R. 2586, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Defense Programs:						
Budget Authority <sup>1</sup> .....	316,051	0	0	0	0	0
Estimated Outlays .....	301,602	107,667	36,099	13,839	6,256	3,308
Proposed Changes:						
Estimated Authorization Level .....	0	342,945	0	0	0	0
Estimated Outlays .....	0	226,158	77,322	23,645	8,199	3,000
Spending Under H.R. 2586 for Defense Programs:						
Estimated Authorization Level <sup>1</sup> .....	316,051	342,945	0	0	0	0
Estimated Outlays .....	301,602	333,825	113,421	37,484	14,455	6,308
CHANGES IN DIRECT SPENDING (EXCLUDING ASSET SALES)						
Estimated Budget Authority .....	0	9	-320	-4	-9	1
Estimated Outlays .....	0	4	-340	-12	6	2
ASSET SALES <sup>2</sup>						
Estimated Budget Authority .....	0	-22	-32	-16	-5	31
Estimated Outlays .....	0	22	-32	-16	-5	31

<sup>1</sup> The 2001 level is the amount appropriated for programs authorized by the bill.

<sup>2</sup> Asset sale receipts are a credit against direct spending.

Note.—This table excludes estimated authorizations of appropriations for years after 2002. (Those additional authorizations are shown in Table 3.)

#### *Basis of estimate*

##### *Spending Subject to Appropriation*

The bill would authorize appropriations totaling \$343 billion in 2002 (see Table 2). Most of those costs would fall within budget function 050 (national defense). H.R. 2586 also would authorize appropriations of \$100 million for the Presidio Trust Fund (function 300—natural resources and environment), \$99 million for the Maritime Administration (function 400—transportation), \$71 million for the Armed Forces Retirement Home (function 600—income security), and \$17 million for the Naval Petroleum Reserves (function 270—energy).

The estimate assumes that the amounts authorized for 2002 will be appropriated near the start of fiscal year 2002. Outlays are estimated based on historical spending patterns.

The bill also contains provisions that would affect various costs, mostly for personnel, that would be covered by the fiscal year 2002 authorization and by authorizations in future years. Table 3 contains estimates of those amounts. In addition to the costs covered by the authorizations in the bill for 2002, these provisions would raise estimated costs by \$9 billion over the 2003–2006 period. The following sections describe the provisions identified in Table 3 and provide information about CBO’s cost estimates for those provisions.

**Multiyear Procurement.**—In most cases, purchases of weapon systems are authorized annually, and as a result, DoD negotiates a separate contract for each annual purchase. In a small number of cases, the law permits multiyear procurement; that is, it allows DoD to enter into a contract to buy specified annual quantities of a system for up to five years. In those cases, DoD can negotiate lower prices because its commitment to purchase the weapons gives the contractor an incentive to find more economical ways to manufacture the weapon, including cost-saving investments. Funding would continue to be provided on an annual basis for these multiyear contracts, but potential termination costs would be covered by an initial appropriation.

Section 111 would authorize DoD to extend the authorization of multiyear procurement for the Family of Medium Tactical Vehicles by one year through 2002, if the department determines that it is necessary to do so to prevent a break in production of the vehicles. Currently, these vehicles are purchased under a multiyear contract administered by the Army covering a four-year period ending in 2001. The contract allows for an option year in 2002 leading to a new multiyear contract. CBO estimates that the savings from buying the vehicles under the extension would have little or no budgetary impact because the Army assumed that the vehicles planned for purchase in 2002 would be bought at prices similar to prices under the existing multiyear contract.

TABLE 2.—SPECIFIC AUTHORIZATIONS IN H.R. 2586

Category	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
<b>Military Personnel:</b>					
Authorization Level .....	82,224	0	0	0	0
Estimated Outlays .....	76,995	4,605	164	82	0
<b>Operation and Maintenance:</b>					
Authorization Level .....	124,357	0	0	0	0
Estimated Outlays .....	93,200	24,264	4,041	1,679	501
<b>Procurement:</b>					
Authorization Level .....	62,036	0	0	0	0
Estimated Outlays .....	16,208	22,452	13,333	5,013	1,988
<b>Research, Development, Test, and Evaluation:</b>					
Authorization Level .....	47,660	0	0	0	0
Estimated Outlays .....	25,441	17,990	3,138	674	189
<b>Military Construction and Family Housing:</b>					
Authorization Level .....	10,325	0	0	0	0
Estimated Outlays .....	2,624	3,987	2,303	776	334

TABLE 2.—SPECIFIC AUTHORIZATIONS IN H.R. 2586—Continued

Category	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
<b>Atomic Energy Defense Activities:</b>					
Authorization Level .....	13,514	0	0	0	0
Estimated Outlays .....	9,162	3,643	709	0	0
<b>Other Accounts:</b>					
Authorization Level .....	2,746	0	0	0	0
Estimated Outlays .....	2,173	433	77	35	8
<b>General Transfer Authority:</b>					
Authorization Level .....	0	0	0	0	0
Estimated Outlays .....	280	-60	-120	-60	-20
<b>Total</b>					
Authorization Level <sup>1</sup> .....	342,862	0	0	0	0
Estimated Outlays .....	226,083	77,314	23,645	8,199	3,000

<sup>1</sup> These amounts comprise nearly all of the proposed changes for authorizations shown in Table 1; they do not include the estimated authorization of \$83 million for the Coast Guard Reserve, which is shown in Table 3.

TABLE 3.—ESTIMATED AUTHORIZATIONS OF APPROPRIATIONS FOR SELECTED PROVISIONS IN H.R. 2586

Category	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
<b>MULTIYEAR PROCUREMENT</b>					
C-17 Aircraft .....	0	-117	-293	-272	-252
<b>FORCE STRUCTURE</b>					
DoD Military Endstrengths .....	230	475	490	504	519
Coast Guard Reserve Endstrengths .....	83	0	0	0	0
Grade Structure .....	31	68	84	95	97
18-Month Enlistment Pilot .....	0	0	12	12	12
<b>COMPENSATION AND BENEFITS (DoD)</b>					
Military Pay Raises .....	1,026	1,420	1,490	1,558	1,624
Expiring Bonuses and Allowances .....	616	478	277	171	114
Travel and Transportation Allowances .....	51	274	351	359	367
Increase Incentive Pay and Bonuses .....	70	99	103	109	115
Housing Allowances .....	0	27	36	38	39
New Officer Accession Bonus .....	18	18	18	20	20
Subsistence Allowances .....	6	15	8	3	0
Uniform Allowances .....	4	4	4	4	4
Education and Training .....	1	6	8	10	13
Other Compensation Provisions .....	-25	8	3	8	7
<b>DEFENSE HEALTH PROGRAM</b>					
Payment Rates .....	-144	-90	0	0	0
Long-Term Care Rules .....	-44	0	0	0	0
Non-Availability Statements .....	0	0	10	10	10
Other Provisions .....	8	5	6	6	6
<b>OTHER PROVISIONS</b>					
Limitations on Workforce Reviews .....	-11	-11	-11	1	105
Service Contracting Reform .....	15	26	33	27	24
National Guard Challenge Program .....	0	9	11	13	15
War Medals .....	0	4	4	5	5
Acquisition Workforce Reduction .....	-25	-236	-246	-256	-266
Asbestos Differential Pay .....	-110	-110	-110	-110	-110
Civilian Wage Board Schedule .....	3	10	10	11	11
Strategic Forces .....	-20	-70	-140	-200	-220

TABLE 3.—ESTIMATED AUTHORIZATIONS OF APPROPRIATIONS FOR SELECTED PROVISIONS IN H.R. 2586—Continued

Category	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
TOTAL ESTIMATED AUTHORIZATIONS					
Estimated Authorization Level .....	1,783	2,312	2,159	2,126	2,260

Note.—For every item in this table except the authorization for the Coast Guard, the 2002 levels are included in the amounts specifically authorized to be appropriated in the bill. Those amounts are shown in Table 2. Amounts shown in this table for 2003 through 2006 are not included in Table 1.

Section 122 would authorize DoD to enter into a new multiyear procurement contract (or extend the current multiyear contract) to buy up to 60 additional C-17 aircraft if the Secretary of Defense certifies to the Congressional defense committees, before the enactment of this bill, that it is in the interest of the department to proceed with follow-on multiyear procurement of the C-17. Under the current multiyear contract, the Air Force will buy 15 aircraft in 2002 and another 8 aircraft in 2003. Assuming the Secretary certifies that it is in the interest of the department to proceed with follow-on multiyear procurement of up to 60 additional C-17s, CBO estimates that savings from buying 60 additional C-17s under this contract arrangement would total \$934 million or an average of about \$250 million a year over the 2003–2006 period. Funding requirements would total just under \$8.3 billion instead of the almost \$9.2 billion needed under annual contracts. This estimate assumes that the Air Force would purchase the 60 additional aircraft starting in 2003 at a rate of 15 a year.

**Force Structure.**—The bill contains various sections that affect endstrength, personnel grade structure, and periods of enlistment.

**Military Endstrength.** The bill would authorize active and reserve endstrengths for 2002 and would raise the minimum endstrength authorization in permanent law. The authorized endstrengths for active-duty personnel and personnel in the selected reserve would total about 1,387,000 and 865,000, respectively. Of those selected reservists, about 66,000 would serve on active duty in support of the reserves. The bill would specifically authorize appropriations of \$82.2 billion for the discretionary costs of military pay and allowances in 2002. The authorized endstrength represents a net increase of 3,152 servicemembers that would boost costs for salaries and other expenses by \$230 million in the first year and about \$500 million annually in subsequent years, compared to the authorized strengths for 2001.

The bill also would authorize an endstrength of 8,000 in 2002 for the Coast Guard Reserve. This authorization would cost about \$83 million and would fall under budget function 400 (transportation).

**Grade Structure.** Sections 415, 423, 503, and 504 would increase the number of service-members in certain grades. Section 415 would change the grade structure of active-duty personnel in support of the reserves and section 423 would increase the number of Air Force officers in the grade of major. Section 503 would reduce the time-in-grade required for promotion to captain in the Army, Air Force, and Marine Corps, and lieutenant in the Navy when service staffing needs require. Under section 504, the number of servicemembers in pay grade E-8 in the Navy, the Marine Corps,

and the Air Force would increase. These changes would not increase the overall endstrength, but would result in more promotions to these ranks. CBO estimates these provisions would cost \$31 million in 2002, rising to about \$100 million by 2006.

*18-Month Enlistment Pilot Program.* Section 589 would create a pilot program for 18-month enlistments. CBO estimates that implementing this section would cost \$36 million over the 2004–2006 period because of the increased recruitment and training activities needed to accommodate the higher military personnel turnover rate and maintain endstrength levels. CBO estimates that implementing this section would increase turnover by approximately 1,000 positions in the 2004–2006 period, and that the cost to recruit and train these troops would be about \$34,000 per person.

*Compensation and Benefits.*—H.R. 2586 contains several provisions that would affect military compensation and benefits.

*Military Pay Raises.* Section 601 would raise basic pay by 5 percent across-the-board and authorize additional targeted pay raises, ranging from 1 percent to 10 percent, for individuals with specific ranks and years of service at a total cost of about \$3.1 billion in 2002. Because the pay raises would be above those projected under current law, CBO estimates that the incremental costs associated with the larger pay raise would be about \$1 billion in 2002 and total \$7.1 billion over the 2002–2006 period.

*Expiring Bonuses and Allowances.* Several sections would extend DoD's authority to pay certain bonuses and allowances to current personnel. Under current law, most of these authorities are scheduled to expire in December 2001, or three months into fiscal year 2002. The bill would extend these authorities through December 2002. CBO estimates that the costs of these extensions would be as follows:

Payment of reenlistment bonuses for active-duty personnel would cost \$327 million in 2002 and \$174 million in 2003; enlistment bonuses for active-duty personnel would cost \$91 million in 2002 and \$140 million in 2003;

Various bonuses for the Selected and Ready Reserve would cost \$64 million in 2002 and \$73 million in 2003;

Special payments for aviators and nuclear-qualified personnel would cost \$52 million in 2002 and \$55 million in 2003;

Retention bonuses for officers and enlisted members with critical skills would cost \$23 million in 2002 and cost \$13 million in 2003;

Authorities to make special payments to nurse officer candidates, registered nurses, and nurse anesthetists would cost \$7 million in 2002 and \$2 million in 2003;

Accession bonuses for dental officers would have no cost in 2002 and cost \$1 million in 2003. (This provision authorizes a three-month extension of the current authority which expires on September 30, 2002); and

Extension of transition authorities for active and reserve members, including temporary early retirement authority, special separation benefit, voluntary separation incentive, and certain other contingent benefits would cost \$52 million in 2002, and \$20 million in 2003.



Most of these changes would result in additional, smaller costs in subsequent years because payments are made in installments.

*Travel and Transportation Allowances.* Sections 631 through 637 would affect travel and transportation allowances by expanding eligibility or increasing benefits. CBO estimates that the cost of these changes would be as follows:

Setting minimum per diem rates equal to the standard rates established for federal civilian travel would have no cost in 2002, but would cost \$142 million in 2003 and \$731 million over the 2003–2006 period;

Increasing the maximum daily payment rate from \$110 to \$180 for temporary subsistence allowances and expanding eligibility to officers would cost \$45 million in 2002 and \$287 million over the 2002–2006 period;

Increasing the maximum weight allowances for junior enlisted members would have no cost in 2002, but would cost \$20 million in 2003 and \$98 million over the 2003–2006 period;

Raising the pet quarantine fee reimbursement from \$275 to \$675 would cost \$1 million in 2002 and \$5 million over the 2002–2006 period;

Authorizing dislocation allowances (DLA) for married servicemembers without dependents where the spouse is a member of the military, would have no cost in 2002, but would cost \$3 million in 2003. Expanding eligibility to receive DLA to members moving to their first duty station would have no cost in 2002, but would cost \$39 million in 2003. Authorizing a \$500 allowance to compensate members who must move for government convenience (e.g., because of privatization or renovation) would cost \$5 million in 2002. CBO estimates that combined these three provisions would cost \$280 million over the 2002–2006 period.

In total, these provisions affecting travel and transportation allowances would cost \$51 million in 2002 and \$1.4 billion over the 2002–2006 period. Those provisions with no cost in 2002 reflect an effective date of January 1, 2003.

*Increases in Incentive Pay and Bonuses.* Sections 539, 616, and 617 would expand eligibility for bonuses and increase pay for personnel with special skills. Section 539 would expand the population eligible to receive stipends under the Health Professional Stipend Program to include medical and dental school students. Assuming the number of participants would increase gradually, at about 5 percent a year, CBO estimates section 539 would cost less than \$500,000 in 2002 and \$7 million over the 2002–2006 period.

Under section 616, certain reservists on inactive-duty training would be entitled to a full month of aviation career incentive pay for performing flying duty. Under current law, reservists receive aviation career incentive pay based on a daily rate for only the days they perform flying duty. Section 617 would raise the maximum pay rates for servicemembers performing submarine duty. CBO estimates these pay increases, effective January 1, 2002, would cost \$70 million in 2002 and \$489 million over the 2002–2006 period. Together, these increases in incentive pay and bonuses would cost \$70 million in 2002 and \$496 million over the 2002–2006 period.

*Housing Allowances.* Section 604 would expand eligibility to receive the basic allowance for housing (BAH) to junior enlisted members in grades E-3 and below who are on leave or traveling between permanent duty stations. Currently, only members in grades E-4 and above are eligible to receive BAH under these conditions. Using DoD's estimate of enlisted accessions, and adjusting for losses during training, CBO expects that about 175,000 enlisted members in grades E-3 and below would be eligible to receive BAH while traveling between permanent duty stations. Assuming members would, on average, be between duty stations for ten days, and applying the BAH rates for members with and without dependents, CBO estimates the average cost per member with and without dependents would be about \$210 and \$180, respectively. Based on an effective date of January 1, 2003, CBO estimates expanding eligibility to these servicemembers would have no cost in 2002, but would cost \$27 million in 2003 and \$140 million over the 2003-2006 period.

*New Officer Accession Bonus.* Section 620 would authorize a new accession bonus for officers. The amount of the bonus, limited to \$100,000, could be paid in a lump sum or installments. Based on information from DoD, CBO expects that the Air Force and the Navy would use this authority starting in 2002, and that the provision would cost \$18 million in 2002 and \$94 million over the 2002-2006 period.

*Subsistence Allowances.* Section 603 would extend the current authority to provide an additional subsistence payment when rations-in-kind are not available. DoD plans to prescribe this incremental subsistence allowance until payments may be fully offset by the annual increases in basic allowance for subsistence (BAS). CBO estimates that under DoD's plan, additional subsistence payments would end in 2005. This section also would delay the termination of BAS transition authority by three months, making termination effective on January 1, 2002, and saving an estimated \$15 million in 2002. CBO estimates the combined effects of implementing these provisions would cost \$6 million in 2002 and \$32 million over the 2002-2006 period, assuming appropriation of the necessary amounts.

*Uniform Allowances.* Section 605 would loosen restrictions on eligibility of officers to receive an additional \$200 clothing allowance by doubling the cap on the dollar amount a member may receive in an initial clothing allowance over the prior two years. Under current law, officers are ineligible to receive the additional allowance if they have received more than \$200 in an initial clothing allowance during the past two years. Raising the cap would increase the number of officers eligible for the additional \$200 allowance. CBO estimates that implementing this provision would cost \$4 million in 2002 and \$20 million over the 2002-2006 period, subject to appropriation of the necessary amounts. Because this provision would have an effective date of October 1, 2000, section 605 would authorize retroactive payments of this additional \$200 allowance and would thus increase direct spending. Those costs are discussed later in this estimate under the heading of "Direct Spending."

*Education and Training.* Section 529 would direct the National Defense University (NDU) to continue its concept validation test of

joint professional military education for the reserves and to conduct a pilot program in 2003. The scope of the pilot program is undefined, but based on information from NDU, CBO estimates the program will eventually involve about 500 students at a cost of \$10,500 per student per year. CBO expects that most of the costs in 2003 would be associated with program startup. CBO estimates minimal cost in 2002 because the validation program would still be ongoing. Overall, CBO estimates that this section would cost \$23 million over the 2002–2006 period.

Section 538 would remove the cap on the number of Junior Reserve Officers' Training Corps (JROTC) units. The services plan to have 3,185 units in 2002, less than the current cap of 3,500 units. Based on recent growth rates, CBO expects the number of units would exceed 3,500 in 2005. CBO estimates implementing section 538 would increase JROTC costs by \$2 million in 2005, rising to \$5 million in 2006.

Under section 535, servicemembers on regular active-duty status could participate in the Senior Reserve Officers Training Corps (ROTC). Under current law, participation in Senior ROTC is limited to members of the reserves. Based on information from the military services, CBO expects that the Air Force and the Army would implement this new authority. Because the Air Force indicates that it would provide the same benefits to active-duty Senior ROTC participants as are paid to those in the Airman Education and Commissioning Program, CBO estimates no cost impact for the Air Force. The Army indicates, however, that it would not pay tuition or provide stipends or scholarships for about 200 active-duty Senior ROTC participants. Because the Army would save the expense of Officer Candidate School or ROTC scholarships and stipends for members who would receive officer training under this section, CBO estimates savings of \$1 million in 2002 and \$9 million over the 2002–2006 period. CBO expects that these members would use Montgomery GI Bill (MGIB) benefits to fund their education. Therefore, this provision would increase direct spending. Those costs are discussed later in this estimate under the heading of "Direct Spending."

Section 533 would increase the number of international students authorized to be admitted to the service academies and would eliminate the restrictions on full tuition waivers. CBO estimates that this section would cost \$17 million over the 2002–2006 period. Removing the restrictions on tuition waivers would allow about 70 additional international students to receive full tuition assistance each year. This figure includes students admitted because of the higher number of international slots made available under this section, as well as slots that are currently receiving only partial tuition assistance. The current cost of tuition for an international student is about \$62,000 a year, and the annual cost of implementing this section would be about \$4 million.

*Other Compensation Provisions.* Section 619 would allow servicemembers electing to receive the 15-year career status bonus to have this bonus paid in installments. Currently this \$30,000 bonus is offered as a lump-sum payment. CBO assumes that about 10 percent of those electing to receive the bonus would, on average, choose to receive two payments of \$15,000 spread over two years.

Because these decisions would shift some payments from one year into the next, CBO estimates section 619 would save \$30 million in 2002 and about \$25 million over the 2002–2006 period. The somewhat lower total savings over the five-year period reflects small costs in some years that result from the estimated yearly change in the number of servicemembers with 15 years of service.

Section 507 would allow an active-duty servicemember who is being separated from the armed services because of a physical disability to have his separation pay based on the rank to which he would have been promoted had he not been separated. Based on current pay tables and information from DoD, about 17 percent of such members would have been approved for promotion and, under section 507, would be entitled to a 17 percent pay increase in separation pay. CBO estimates implementing section 507 would increase separation pay by about 3 percent or \$5 million a year.

**Defense Health Program.**—Title VII contains several provisions that would affect DoD health care and benefits. Tricare is the name of DoD's health care program and the spending under Tricare for beneficiaries under age 65 is subject to appropriation. Spending under Tricare for beneficiaries age 65 and over, often called Tricare for Life (TFL), is subject to appropriation in 2002, but beginning in 2003 this spending will be paid out of a trust fund and will not be subject to appropriation.

**Payment Rates.** Under current law, DoD has the regulatory authority to set maximum allowable rates for medical services to limit how much the Tricare program pays to health care providers. Although DoD has set maximum rates for many services, it has not yet set rates for hospital outpatient diagnostic services, including clinical lab work and radiation services, and long-term care services such as skilled nursing and home health care services. As a result, Tricare currently pays 75 percent of billed charges for these services. DoD has started the regulatory process to establish maximum rates for the services listed here and estimates it will take upwards of two years to implement the changes by regulation.

Section 701 would require DoD to implement these rates by January 1, 2002. Under this provision, DoD would be able to lower its costs for both hospital outpatient and long-term care services over the 2002–2003 period before the regulations would have been implemented. These savings would affect spending subject to appropriation as well as direct spending for retirees of the other uniformed services in 2002 and 2003 and the TFL trust fund that starts operation in 2003. CBO estimates that the total savings in spending subject to appropriation for hospital outpatient and long-term care services would be about \$230 million over the 2002–2003 period, assuming appropriations are reduced by the estimated amounts. Section 701 would affect two different programs: Tricare (under 65) and Tricare for Life. Those two effects are discussed below.

By lowering payment rates for hospital outpatient diagnostic services, DoD would be able to reduce spending on its beneficiaries under age 65. (This portion of the provision would not affect beneficiaries age 65 and over because Medicare is first payer for these services and TFL would only be responsible for the Medicare deductible and copayments.) Using data from DoD, CBO estimates

that making payment rates for hospital outpatient diagnostic services equivalent to Medicare rates would lower Tricare spending for these services by about 30 percent. CBO estimates that lowering the payment rates for hospital outpatient services would save about \$150 million over the 2002–2003 period, assuming appropriations are reduced by the estimated amounts.

Under section 701, DoD also would lower the rates paid for skilled nursing and home health care. This change would primarily affect the TFL program since beneficiaries under age 65 do not use much long-term care (DoD spent only \$10 million on long-term care for those under 65 in 2000). Savings arise because Tricare's skilled nursing benefit has no time limit while Medicare's benefit expires after 100 days. The change in payment rates would have no impact on Tricare for the first 100 days because Tricare would only be liable for the deductibles and copayments charged under Medicare. However, this provision would lower the amount that Tricare would pay for those beneficiaries who need more than 100 days of skilled nursing care. Additionally, Tricare would reduce its costs for providing skilled nursing and home health care to those beneficiaries who use these services without a prior hospital stay and are thus not Medicare-eligible.

CBO estimates the savings to Tricare would initially be low because the Tricare for Life program does not actually begin operation until the start of fiscal year 2002 and CBO expects that it will take about a year before all beneficiaries take full advantage of the program. CBO estimates that lowering payment rates for skilled nursing and home health care would save DoD about \$80 million in 2002, assuming appropriations are reduced by the estimated amounts. (There also would be direct spending savings of about \$7 million over the 2002–2003 period for the other uniformed services, and about \$215 million in 2003 for DoD when the trust fund begins operation. CBO's estimates of those savings is discussed below under the heading of "Direct Spending.")

*Long-Term Care Rules.* Tricare does not currently require a hospital stay prior to using long-term care services such as skilled nursing and home health care. Requiring prior hospitalizations would reduce the number of beneficiaries who use long-term care. DoD has started the regulatory process to require such prior hospitalizations and expects to complete the process by the start of fiscal year 2004.

Section 704 would require DoD to structure the Tricare long-term care program to resemble Medicare, which requires prior hospitalization before being eligible for skilled nursing and home health care. Under section 704, DoD would be required to implement this provision on October 1, 2001. Requiring prior hospitalization under Tricare's long-term care program would reduce the benefit for those beneficiaries that would otherwise have used long-term care and would save DoD the cost of providing this care over the 2002–2003 period before the DoD's the new long-term care rules would have gone into effect under DoD's plan. CBO estimates that some of those beneficiaries would likely be able to get a prior hospitalization before seeking care. In those instances, Medicare would become the first payer while a few beneficiaries would end up using Medicaid. Thus the savings to DoD would be partially off-

set by increased costs to both Medicare and Medicaid (discussed below).

Using data from DoD and the Agency for Healthcare Research and Quality, CBO estimates that about 3,500 beneficiaries, who would have used skilled nursing without a hospital stay, would be affected by these new rules along with about 24,000 beneficiaries who would have used home health care. CBO estimates that some of those beneficiaries would pay for the long-term care through Medicare or Medicaid, while others would pay the costs themselves, use other insurance, or do without the long-term care. For those beneficiaries who would be covered by Medicare, DoD would not save the full cost because Tricare would be liable for all deductibles and copayments. Taking this information into account, CBO estimates that, under section 704, Tricare spending would be reduced by about \$40 million in 2002, assuming appropriations are reduced by the estimated amounts. (There would also be direct spending savings of about \$120 million for both the trust fund and the other uniformed services in 2003 and Medicare and Medicaid costs in both 2002 and 2003.)

*Non-Availability Statements.* Under current law, users of military health care have the option of enrolling in Tricare Prime, an HMO-like plan that centers its provision of services around military treatment facilities. Users who do not enroll in Tricare Prime have the option of using Tricare Extra, a preferred provider network, or Tricare Standard, a traditional fee-for-service insurance plan. Beneficiaries who live within 40 miles of a military hospital must get a statement from the hospital that it cannot provide the requested care before the beneficiary may use Tricare Standard or Extra. Absent that statement, Tricare does not have to pay for the care received at a nonmilitary facility.

Section 702 would prohibit the requirement of such statements beginning sometime in fiscal year 2004 (two years after the enactment of this bill), unless the Secretary of Defense certifies that they are still needed for each medical procedure. Based on information from DoD, CBO expects that the Secretary of Defense would certify that these statements are necessary in most cases, although not in all cases. For those cases where a statement would no longer be necessary, CBO estimates that this provision would cost about \$10 million in 2004 and \$30 million over the 2004–2006 period, assuming appropriation of the estimated amounts.

*Other Defense Health Care Provisions.* H.R. 2586 also contains two proposals that would cost relatively little over the 2002–2006 period. CBO estimates that implementing these two additional health care provisions would cost \$8 million in 2002 and \$31 million over the 2002–2006 period.

Section 705 would allow DoD to reimburse the parent or guardian of minors for travel costs associated with the minor receiving care at a military treatment facility more than 100 miles away from the minor's home. CBO estimates that this proposal would cost about \$5 million a year.

Section 588 would allow government agencies to pay the employee's share of the insurance premium paid under the Federal Employee Health Benefits program, if the employee is involuntarily called to active duty for a contingency operation. It also would

allow the agencies to reimburse past premium payments for employees called up after December 8, 1995. CBO estimates that this provision would cost about \$3 million in 2002 (primarily for reimbursements), less than \$500,000 in 2003, and \$1 million a year beginning in 2004.

**Limitations on Workforce Reviews.**—Section 331 would limit the ability of DoD to conduct outsourcing studies to only 3,053 civilian positions in fiscal year 2002. CBO estimates that this section would cost about \$70 million over the 2002–2006 period, assuming appropriation of the necessary amounts.

DoD currently plans to conduct outsourcing studies on approximately 13,000 civilian positions in 2002. Under section 331, DoD would review 10,000 fewer positions than planned. Based on information from the General Accounting Office (GAO) and DoD, CBO estimates that each outsourcing study takes three years to accomplish and costs approximately \$3,500 per position studied. CBO estimates that reducing the number of positions reviewed in 2002 would result in a savings of approximately \$34 million over the 2002–2004 period. CBO also estimates that an additional \$51 million would be saved in 2005 because the department would not have to pay the involuntary separation costs associated with the workforce reductions resulting from the reviews. CBO estimates that separation costs would average \$5,200 for each position studied. While actual separation costs range between \$20,000 to \$25,000 for each position, the average cost per position studied considers the fact that only half of the civilian positions reviewed would result in job eliminations, and that many of the civilians whose jobs were eliminated would be transferred to other positions within the department.

The costs associated with section 331 would result from DoD having to reduce future savings estimates for the years 2005 and beyond. Based on information from DoD and GAO, CBO estimates that recurring savings would be approximately \$10,500 for each position studied. CBO estimates that, under its current plan, DoD would begin to realize savings from outsourcing studies begun in 2002 in the second half of 2005 and that the annual savings under DoD's current plan would be approximately \$140 million in 2006 and every year thereafter. Under the proposed limits in this provision, CBO estimates that DoD would realize savings of only \$33 million in 2006 and thereafter. The reduction in savings for the 2005–2006 period would be approximately \$155 million.

**Service Contracting Reform.**—Subtitle G of title III would extend workforce review studies to new requirements and work previously outsourced to the private sector. CBO estimates that implementing these sections would cost approximately \$125 million over the 2002–2006 period.

Section 383 would require workforce studies on all new requirements not previously performed by DoD or contractor personnel that result in contracts greater than \$1 million. Based on information from DoD, CBO estimates that this provision would affect approximately 10,000 contractor positions each year and that the cost to review each position would be approximately \$3,500. Because the requirements of this provision would be phased in over a four-year period so that only 30 percent of the requirement would need

to be met by 2005, CBO estimates that implementing this provision would cost \$20 million over the 2002–2006 period.

Section 385 would require DoD to subject an equivalent number of contractor positions to workforce reviews for each civilian position review planned. Based on information from DoD and GAO, CBO estimates that DoD would study approximately 34,000 contractor positions at a cost of \$105 million over the 2002–2006 period.

CBO estimates no significant savings as a result of these reviews. Although some evidence suggests that subjecting contractors to competition could reduce costs in some instances, most estimated savings from workforce reviews are due to reductions of government personnel and overhead. It is also uncertain as to what extent government organizations could organize themselves to formally compete for work currently performed by the private sector.

National Guard Challenge Program.—Section 587 would eliminate the spending cap on the National Guard Challenge Program beginning in fiscal year 2003, and would also increase the federal contributions to state programs from 60 percent to 75 percent. CBO estimates that implementing this section would cost \$48 million over the 2003–2006 period. CBO estimates that increasing the federal contributions to 75 percent would increase the annual cost for each space by about \$1,000. Applying this cost to the 6,600 spaces in the program and allowing program costs to increase with inflation would result in an average annual cost for the program of about \$10 million over the 2003–2006 period.

War Medals.—Sections 546 and 547 would establish two new service medals. Section 546 would create a Korea Defense service medal for those servicemembers who served in the Republic of Korea or the adjacent waters at any time during the period beginning July 28, 1954, and ending at a time to be determined by the Secretary of Defense. CBO expects that on average about 200,000 medals would be awarded each year. Section 547 would authorize a Cold War service medal for members who served on active duty between September 2, 1945, and December 26, 1991. CBO estimates that about 500,000 eligible members, or their survivors, would apply each year. CBO estimates that these provisions would have no cost in 2002, but would cost \$18 million over the 2003–2006 period. CBO estimates no cost in 2002 to account for the delay in designing and minting these medals, and processing applications.

Reductions in Defense Acquisition Workforce.—Section 901 would limit the size of the defense acquisition workforce by requiring a reduction of at least 13,000 military and civilian personnel during fiscal year 2002. Because the total number of military personnel is determined by endstrength requirements, CBO assumes that the provision would lead to their transfer to other activities rather than separation from the services. Separations of civilian personnel, who comprise about 80 percent of the acquisition workforce, would account for the remaining reductions. Because these civilian reductions would exceed those expected under current law, CBO estimates savings of \$25 million in 2002, \$236 million in 2003, and \$1 billion over the 2002–2006 period. Savings would be



relatively small during the first year because the cost of separation payments would offset most of the initial savings in salaries.

**Asbestos Differential Pay.**—Under section 1108, federal wage-grade employees would be subject to the same standards as general schedule employees when determining eligibility for environmental differential pay (EDP), based on exposure to asbestos. Under current law, general schedule employees are entitled to 8 percent hazard differential pay if they are exposed to asbestos that exceeds the Occupational Safety and Health Administration (OSHA) permissible exposure limits. The current EDP standard for wage-grade employees entitles them to the same 8 percent of pay, but does not set an objective measure for determining the level of asbestos exposure necessary to qualify for EDP. In several instances where wage-grade employees have sought back pay for EDP, arbitrators found in favor of the employees when asbestos levels were below those consistent with OSHA standards. Based on information from DoD on prior and pending arbitration rulings, CBO expects that implementing section 1108 would reduce the amount of back pay federal agencies would be required to pay for EDP based on asbestos exposure. Assuming these cases would be handled administratively, CBO estimates establishing OSHA standards for asbestos EDP would save \$110 million in 2002 and \$550 million over the 2002–2006 period, assuming appropriations are reduced by the estimated amounts.

**DoD Civilian Wage-Grade Schedule.**—Section 1110 would establish the same guidelines for determining the pay schedule for DoD wage-grade employees as those in place, under current law, for non-DoD wage-grade employees when there are an insufficient number of comparable positions in the local private industry to generate the wage schedule. Under current law, DoD may only consider local private-industry rates when constructing the wage schedules for various wage areas across the country. This section would instruct DoD to consider private-industry rates in both the local area and a similar wage area, with more comparable private-sector positions. Based on information from the Office of Personnel Management, CBO estimates that section 1110 would increase the wages of DoD wage-grade employees in certain wage areas and would cost \$3 million in 2002 and \$45 million over the 2002–2006 period, assuming appropriation of the estimated amounts. The lower cost in the first year reflects CBO's assumption that the adjustments to the wage schedules would occur at the same time of year that the wage schedule would normally be adjusted.

**Strategic Forces.**—Section 1044 would repeal subparagraph (D) of section 1302(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85), as amended by section 1501(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65), to allow DoD to initiate actions to retire or dismantle the Peacekeeper intercontinental ballistic missile force. CBO estimates that the provision would save about \$600 million over the 2002–2006 period. Those savings would come from eliminating the cost to operate the missiles starting immediately in 2002, eventually saving about \$200 million a year. These savings would be partially offset by the costs of removing the missiles and warheads from the silos and the costs of monitoring the silos. CBO

assumes that the retirement process would take about three years and that the missiles would be completely retired by the end of 2004. CBO estimates missile retirement costs would total about \$100 million over the 2002–2004 period.

**Military Housing Privatization Initiative (MHPI).**—Section 2804 would permanently extend special authorities to finance the construction and renovation of military family housing. Those authorities, which expire on December 31, 2004, allow DoD to use direct loans, loan guarantees, long-term leases, rental guarantees, barter, direct government investment, and other financial arrangements to encourage private-sector participation in building military housing. Funding for those activities derives from the Family Housing Improvement Fund and consists of appropriations to the fund, transfers from other accounts, receipts from property sales and rents, returns on any capital, and other income from operations or transactions connected with the program. Currently the amounts in the fund are available to acquire housing using the various techniques mentioned above, but the total value of budget authority for all contracts and investments undertaken is limited to \$1 billion.

Based on how the Office of Management and Budget (OMB) has treated recent use of the authority, CBO does not estimate any budgetary impact from extending the authorities. (This bill authorizes the appropriation of \$2 million to the fund for fiscal year 2002, and that amount is included in the budget estimates.) However, CBO believes that OMB's current accounting for MHPI initiatives is at odds with government-wide standards for recording obligations and outlays. Those standards call for different treatments depending on the character of the transaction. The OMB accounting treats certain initiatives primarily as credit transactions that have relatively little cost in terms of recorded obligations and outlays. In contrast, CBO considers those initiatives as having the characteristics of lease-purchases, which call for recording higher levels of upfront obligations and outlays. The Administration's approach will allow DoD to obligate significantly more federal resources than the \$1 billion limitation for such projects.

**Management of the Presidio of San Francisco.**—Section 2863 would increase from \$50 million to \$150 million the amount that the Presidio Trust may borrow, subject to appropriation, from the U.S. Treasury. Based on recent spending patterns of the Trust (which is a wholly owned government corporation that manages the Presidio in California), CBO estimates that this money would be borrowed and spent slowly over the next five years.

#### *Direct Spending*

The bill contains provisions that would reduce direct spending, primarily through revision to payments rates for certain defense health care program services and certain asset sales from the National Defense Stockpile. The bill also contains a few provisions with small direct spending costs. On balance, CBO estimates that enacting H.R. 2586 would result in net savings in direct spending totaling \$384 million over the 2002–2006 period.

TABLE 4.—ESTIMATED DIRECT SPENDING FROM HEALTH CARE AND OTHER PROVISIONS IN H.R. 2586

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN DIRECT SPENDING (EXCLUDING ASSET SALES)					
Section 535—Active-Duty Participation in Senior ROTC:					
Estimated Budget Authority .....	1	1	1	1	1
Estimated Outlays .....	1	1	1	1	1
Section 605—Retroactive Uniform Allowances:					
Estimated Budget Authority .....	3	0	0	0	0
Estimated Outlays .....	3	0	0	0	0
Medical Care Trust Fund:					
Section 701—Payment Rates:					
Estimated Budget Authority .....	-2	-220	0	0	0
Estimated Outlays .....	-2	-220	0	0	0
Section 704—Long-Term Care Rules:					
Estimated Budget Authority .....	21	-47	0	0	0
Estimated Outlays .....	21	-47	0	0	0
Section 811—Recovery Audits:					
Estimated Budget Authority .....	-11	-55	-6	-10	0
Estimated Outlays .....	-16	-75	-14	5	1
Section 2845—Land Conveyance of Navy Property in Maine:					
Estimated Budget Authority .....	0	1	1	0	0
Estimated Outlays .....	0	1	1	0	0
Subtotal:					
Estimated Budget Authority .....	9	-320	-4	-9	1
Estimated Outlays .....	4	-340	-12	6	2
ASSET SALES <sup>1</sup>					
National Defense Stockpile—New Sales:					
Estimated Budget Authority .....	-2	-2	-2	-2	-2
Estimated Outlays .....	-2	-2	-2	-2	-2
National Defense Stockpile—Accelerated Cobalt Sales:					
Estimated Budget Authority .....	-20	-30	-14	-3	33
Estimated Outlays .....	-20	-30	-14	-3	33
Subtotal:					
Estimated Budget Authority .....	-22	-32	-16	-5	31
Estimated Outlays .....	-22	-32	-16	-5	31
TOTAL CHANGES IN DIRECT SPENDING					
Estimated Budget Authority .....	-13	-352	-20	-14	32
Estimated Outlays .....	-18	-372	-28	1	33

<sup>1</sup> Asset sale receipts are a credit against direct spending.

**Active-Duty Participation in Senior ROTC.**—Section 535 would allow servicemembers to participate in the Senior Reserve Officers Training Corps (ROTC) while on regular active-duty status. Under current law, participation in Senior ROTC is limited to members of the reserves. Based on information from the military services, the Army would allow about 200 active-duty enlisted members a year to enroll in college under this program. While the Army would not pay for their education, these members would continue to receive pay and benefits during their college career. CBO expects that these members would use Montgomery GI Bill benefits to fund their education. Under current law, CBO assumes that half of these members would not use their MGIB benefits. Therefore, CBO estimates that section 535 would increase MGIB outlays by \$1 million a year, starting in 2002.

**Retroactive Uniform Allowances.**—Section 605 would authorize retroactive payments of an additional \$200 clothing allowance for certain officers who were ineligible during fiscal year 2001 because

they had received more than \$200 in an initial uniform allowance over the prior two-year period. CBO estimates that these retroactive payments would cost \$3 million in 2002.

**Medical Care Trust Fund.**—Sections 701 and 704 would change the way DoD administers long-term care and the way it pays for that care under the Tricare for Life program. DoD has the regulatory authority to make the changes that are directed in these sections but thinks it will take upwards of two years to implement the changes by regulation. Section 701 would require that the changes be implemented by January 1, 2002, and section 704 would take effect on October 1, 2001. Accordingly, DoD would save money over the roughly two-year period before the regulations would have been implemented. The Tricare for Life program will begin on October 1, 2001, but the trust fund will not begin operation until one year later, so only the savings to DoD in fiscal year 2003 would be considered direct spending savings. There also would be some minor savings in 2002 for retirees of the other uniformed services.

**Payment Rates.** Under current regulations, the Tricare for Life program will pay all deductibles and copayments associated with Medicare's skilled nursing benefit and will pay for skilled nursing care in excess of the Medicare benefit (100 days). Additionally, Tricare will pay for skilled nursing and home health care even if the beneficiary does not have a prior hospital admission. (Tricare will pay 75 percent of billed charges, with no maximum charge, until the beneficiary has paid \$3,000 in out-of-pocket costs and then will pay 100 percent of billed charges after that point.) Section 701 would require DoD to set maximum allowable charges for skilled nursing and home health care, which would lower its cost of providing long-term care. CBO estimates that implementing new charges based on Medicare rates would lower what DoD pays for skilled nursing and home health care by about 30 percent. Under section 701, CBO estimates that direct spending from the trust fund for DoD retirees would decline by about \$215 million in 2003. (The discretionary savings for 2002 are discussed earlier in the "Spending Subject to Appropriation" section under the heading of "Defense Health Program.")

The Tricare for Life program also covers retired members of the Coast Guard and retired uniformed members of the Public Health Service and the National Oceanic and Atmospheric Administration. Health care spending for these retirees is considered direct spending. Under section 701, CBO estimates that the other uniformed services would save about \$2 million in 2002 and \$5 million in 2003.

**Long-Term Care Rules.** Under current law, Medicare will not pay for skilled nursing and home health care unless the beneficiary has been hospitalized before receiving that care. Tricare, on the other hand, will pay for long-term care without a prior hospitalization. For those cases, Tricare becomes the primary insurance because Medicare will not pay. Section 704 would require DoD to structure its long-term care benefit to resemble Medicare's, which requires prior hospitalization. Implementing this provision would lower DoD's costs because fewer beneficiaries would be eligible for skilled nursing and home health care. CBO estimates that under section 704, direct spending from the trust fund would decline by about

\$120 million in 2003. CBO also estimates that, under section 704, the other uniformed services would save less than \$500,000 in 2002 and about \$1 million in 2003. (There would also be discretionary savings of about \$40 million, as discussed earlier.)

The Tricare for Life program would be able to lower costs by shifting many of those costs to their beneficiaries and other government programs, primarily Medicare. CBO estimates that about 50 percent of individuals who would have used long-term care without a prior hospital stay would be able to qualify under the Medicare rules (about 1,600 for skilled nursing and about 12,000 for home health care). CBO further estimates that the average cost of skilled nursing is about \$250 a day, and for home health care about \$2,300 for 60 days of care, which is the Medicare benefit. Accordingly, CBO estimates that under section 704 direct spending for Medicare benefits would increase by \$20 million in 2002 and \$70 million in 2003. In addition, a few beneficiaries would eventually become eligible for Medicaid, which also provides long-term care benefits. CBO estimates that Medicaid costs under section 704 would be \$1 million in 2002 and \$3 million in 2003.

**Recovery Audits.**—Subtitle B of title VIII would require federal agencies to conduct specialized audits of those accounts that purchase at least \$500 million of goods and services from the private sector. The goal of these audits would be to find and recover sums erroneously paid to private vendors. The legislation also would allow agencies to retain and spend some of the funds recovered under certain conditions. Recovered funds that still would be available for obligation could be spent on the original purposes of those funds, and 25 percent of all other funds could be spent on management improvement projects.

CBO estimates that implementing this program would reduce net direct spending by about \$100 million over the 2002–2006 period, by increasing the federal government's recovery of erroneous payments made in prior years. For this estimate, we assume that most agencies would audit at least three years of such payments. Implementing the bill could yield additional savings from payments made after 2001, but such savings would depend on future appropriations. In addition, CBO estimates that the Office of Management and Budget would spend less than \$500,000 a year to oversee and report on the bill's implementation, subject to the availability of appropriated funds. The savings from this legislation fall within multiple budget functions.

CBO expects that the requirement to audit payments would apply to about \$60 billion in annual payments. This total excludes those accounts that we expect to be audited under current law and those that OMB would probably exempt from the bill's requirements, including accounts that fund research, testing, and procurement of military weapons, finance federal law enforcement activities, and involve medical records. On average, CBO assumes the federal government would recover about 0.1 percent of the \$60 billion audited, or \$60 million a year. That rate takes into account the difficulty in collecting overpayments that are more than one year old and the likelihood that federal agencies will settle for less than full payment on some of these debts.

CBO estimates that agencies would spend about 45 percent of recovered funds, which is our estimate of the maximum that could be spent under this provision. First, we assume that agencies would spend all of the recovered funds that still would be available for obligation (i.e., funds that were provided under multiyear obligation authority). In addition, we assume that agencies would spend the allowed 25 percent of all other recovered funds (i.e., those recoveries for which the original obligation authority has expired). Based on the obligation authority provided in appropriations for fiscal year 2001, and accounting for certain exclusions that would be allowed under the bill, CBO estimates that agencies could spend at most about 45 percent of recovered funds.

**Land Conveyance and Other Property Transactions.**—Titles XXVIII and XXIX would authorize a variety of property transactions involving both large and small parcels of land.

The bill would result in direct spending by authorizing a conveyance that would reduce offsetting receipts collected by the federal government. Under section 2845, the Navy would be authorized to convey 485 acres of property to the state of Maine or other governmental jurisdictions. Under current law, however, the Navy will declare that property excess to its needs and transfer it to the General Services Administration (GSA) for disposal. Under normal procedures, GSA sells property not needed by other federal agencies or by non-federal entities in need of property for public-use purposes such as parks or educational facilities. Information from GSA indicates that portions of the land will likely be sold under current law after the entire parcel is screened for other uses in 2002. As a result, CBO estimates that the conveyance in the bill would result in forgone receipts totaling about \$1 million in 2003 and \$1 million in 2004.

Section 2861 would direct the Secretary of the Interior to transfer administrative jurisdiction over 35 acres of federal lands in Park City, Utah, to the Secretary of the Air Force, for purposes of building a recreational facility. Title XXIX also would direct the Secretary of the Interior to transfer administrative jurisdiction over approximately 110,000 acres of federal lands in San Bernardino County, California, to the Secretary of the Army. Based on information from the Department of the Interior (DOI), CBO estimates that those transfers would not significantly affect the federal budget. According to DOI, the lands currently generate no significant receipts, and the agency does not expect the lands to generate significant receipts over the next 10 years.

CBO estimates that other provisions would not result in significant costs to the federal government because they would either authorize DoD to exchange one piece of property for another or would authorize DoD to convey land that under current law is likely to be given away.

**Concurrent Receipt.**—Upon passage of qualifying, offsetting legislation, section 641 would allow total or partial concurrent payment of retirement annuities together with veterans' disability compensation to retirees from the military, the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration who have service-connected disabilities. The provision also

would discontinue special compensation for certain severely disabled uniformed services retirees.

Under current law, disabled veterans who are retired from the uniformed services cannot receive both full retirement annuities and disability compensation from the Department of Veterans Affairs. Because of this prohibition on concurrent receipt, such veterans forgo a portion of their retirement annuity equal to the non-taxable veterans' benefit.

Section 641 would become effective only upon passage of legislation that would fully offset its costs in each of the first 10 fiscal years after passage of the offsetting legislation. If qualifying, offsetting legislation were enacted in 2001, CBO estimates that implementing this section in 2002 would increase direct spending for retirement payments and veterans' disability compensation by about \$3 billion in 2002, \$17 billion over the 2002–2006 period, and \$41 billion over the 2002–2011 period. Because those effects are contingent upon subsequent legislation, they are not included in Table 4.

In addition, the military retirement system is financed in part by an annual payment from appropriated funds to the military retirement trust fund, based on an estimate of the system's accruing liabilities. If section 641 were implemented, the yearly contribution to the military retirement trust fund (an outlay in budget function 050) would increase to reflect the added liability from the expected increase in annuities to future retirees. CBO estimates that implementing this provision would increase such payments by about \$1 billion in 2002, and \$6 billion over the 2002–2006 period, assuming appropriation of the necessary amounts.

**Other Provisions.**—The following provisions would have an insignificant budgetary impact on direct spending:

Section 514 would allow officers, whose mandatory retirement has been deferred for medical reasons, to further postpone their retirement for up to 30 days.

Section 512 would allow the Service Secretaries to hold special selection boards to consider reserve officers from below the promotion zone who, through error, were either not considered for promotion or were passed over on or after October 1, 1996. Under current law, special selection boards may only consider members who were in or above the promotion zone. Because members would be entitled to back pay if they receive retroactive promotions, enacting this provision would increase direct spending. CBO expects the number of retroactive promotions to be small and we estimate that outlays would increase by less than \$500,000 a year.

Section 514 would allow disability retirement for reservists whose disability was incurred or aggravated while remaining overnight before inactive-duty training, or between successive periods of such training. Currently, reservists are only covered during overnight stays for such periods if they are outside reasonable commuting distance of their residences.

Section 515 would reduce the time-in-grade requirement for certain reserve officers who are retired because of a non-service-connected disability. In order to retire at a given grade, they would have to have served six months in that grade, rather than the three years required under current law.

Section 528 would allow the National Defense University (NDU) to collect and spend tuition receipts for up to 10 civilian students from the private sector at any one time. Currently, NDU accepts about 3 civilian students a year, on average, and their tuition is paid to the Treasury. CBO estimates this section would result in a negligible loss of receipts to the Treasury.

Section 542 would require the military to review the records of certain Jewish American and Hispanic American war veterans to determine if any of these veterans should be awarded the Medal of Honor. A \$600 a month pension is available to living Medal of Honor recipients. Based on similar reviews in the past, CBO estimates that a small number of awards would be presented (many posthumously), resulting in an increase in direct spending of less than \$500,000 a year.

Section 574 would allow DoD to accept voluntary legal services as a way to provide legal help to DoD beneficiaries. Although the service is voluntary, in the event of a legal malpractice suit the government would be liable for any claims against the legal volunteer. Payment of those claims is considered direct spending, but CBO estimates that this provision would cost less than \$500,000 each year.

Section 713 would establish a pilot program to allow certain hospitals to provide trauma and other medical care to individuals who are not currently eligible for care at military treatment facilities. The hospital would bill the individuals based on private rates and would have the authority to spend the receipts collected without the requirement for annual appropriations. Based on information provided by DoD, CBO estimates that the department would collect and spend less than \$500,000 a year.

Section 1104 would provide greater pension portability for certain civilian employees who have been employed by a Non-appropriated Fund Instrumentality (NAFI) and then become federal workers or vice versa. The provision would make it easier for workers who move between a NAFI employer and the civil service to transfer any accrued service credits from one retirement system to another. Based on information from DoD indicating relatively few workers would be affected by this provision, CBO estimates that section 1104 would change direct spending by less than \$500,000 a year.

#### *Asset sales*

The bill would authorize DoD to sell certain materials contained in the National Defense Stockpile that are obsolete or excess to stockpile requirements. CBO estimates that DoD would be able to sell the materials authorized for disposal and achieve receipts totaling about \$2 million in 2002, \$10 million over the 2002–2006 period, and \$20 million over the 2002–2011 period.

The bill also would accelerate by one year the disposal of cobalt that was previously authorized for sale in the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85). The 1998 bill authorized the sale of all remaining cobalt starting in 2003. The sales of cobalt authorized for disposal under earlier bills are projected to be completed this year. This bill would allow all remaining cobalt to be sold starting in 2002, thus avoiding a one-year



gap in sales. CBO estimates that DoD would be able to expedite that disposal without impacting current market prices, resulting in more receipts from asset sales over the next five years but no net budgetary impact over the 2002–2011 period.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in direct spending that are subject to pay-as-you-go procedures are shown in Table 5. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

TABLE 5.—ESTIMATED IMPACT OF H.R. 2586 ON DIRECT SPENDING AND RECEIPTS

	By fiscal year, in millions of dollars										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays .....	0	-18	-372	-28	1	33	33	-1	-1	-1	-1
Changes in receipts .....	Not applicable										

Intergovernmental and private-sector impact: Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the national security. Many of the provisions in this bill would fall under that exclusion.

Other sections of HR 2586 contain several intergovernmental mandates, including two preemptions of state law. None of the mandates would impose significant costs; therefore, the threshold established by UMRA (\$56 million for intergovernmental mandates in 2001, adjusted annually for inflation) would not be exceeded. The bill also would provide for several land conveyances between the federal government and state, local, and tribal governments and includes provisions that would protect those governments from unnecessary cleanup costs should an environmental hazard be discovered on that land.

A provision in title 5 (Military Personnel Policy) would require public secondary schools to provide military recruiters with access to students and to student information in the same manner that such access and information is provided to employers and institutions of higher education. The requirement to provide access and information to the military would be a mandate as defined by UMRA. Because this information is already provided to other parties, the costs of complying with this mandate would be minimal.

The two preemptions in this bill deal with land management. Section 2811 (Use of Military Installations for Certain Recreational Activities) would amend current law to allow the Secretary of Defense to waive compliance with state or territorial fish and game laws at a military installation or facility if the Secretary determines that those laws could result in undesirable consequences for public safety or adverse effects on morale. Under current law, the Secretary must require each military installation or facility under the jurisdiction of any military department to adhere to the appropriate fish and game laws. Such a preemption of state law would be a mandate. However, the costs of complying with this mandate would be minimal, since the states would not be required to take any specific action or spend any money to comply.

Section 2864 (Effect of Limitation on Construction of Roads or Highways, Marine Corps Base, Camp Pendleton, California) would preempt any California state law passed after January 1, 2001, that directly or indirectly prohibits or restricts the construction or approval of a road or highway within an easement granted by the Secretary of the Navy on the Camp Pendleton Marine Corps Base. The costs of complying with this mandate also would be minimal since the state would not be required to take any specific action or spend any money to comply.

Finally, the changes to DoD's Tricare long-term care program would result in additional Medicaid costs to states of about \$1 million in 2002 and over \$2 million in 2003. Because states have sufficient flexibility in the Medicaid program to alter their programmatic and financial responsibilities, these additional costs would not result from intergovernmental mandates as defined in UMRA.

Previous CBO estimate: On May 22, 2001, CBO prepared a cost estimate for S. 170 and H.R. 303, identical bills titled the Retired Pay Restoration Act of 2001. S. 170 and H.R. 303 would provide identical benefits to those specified in Section 641 of H.R. 2586. If section 641 is implemented by October 1, 2001, the costs would be identical to those estimate for S. 170 and H.R. 303. As noted above, however, the provisions of section 641 cannot be implemented until additional legislation is enacted (to offset the section's costs). S. 170 and H.R. 303 do not contain such a contingency requirement.

Estimate prepared by: Federal costs: Military Construction and Other Defense: Kent Christensen; Military and Civilian Personnel: Dawn Regan; Civilian Retirement: Geoffrey Gerhardt; Stockpile Sales and Strategic Forces: Raymond Hall. Military Retirement: Sarah Jennings; Health Programs: Sam Papenfuss; Multiyear Procurement: Jo Ann Vines; Maritime Administration: Deborah Reis; Naval Petroleum Reserves: Lisa Cash Driskill; Operations and Maintenance: Matthew A. Schmit. Impact on State, local, and tribal governments: Elyse Goldman. Impact on the private sector: R. William Thomas.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the committee generally concurs with the estimates as contained in the report of the Congressional Budget Office.

#### OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII 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 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) 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 402 of the Congressional Budget Act of 1974.

With respect to clause 3(c)(4) of rule XIII 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. 2586.

#### GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, this legislation would address several general and outcome-related performance goals and objectives. The general goal and objective of this legislation is to improve the quality of life for military personnel and their families, military readiness, the modernization and eventual transformation of the armed forces, to enhance the development of ballistic missile defenses, and to improve the condition of military housing and facilities.

With respect to the outcome-related goal of improving the quality of life for military personnel and their families, the objective of this legislation is to:

- (1) ensure the largest military pay raise since fiscal year 1982 that would provide every service member, after pay table adjustments contained in this legislation, with a pay raise between 5 and 10 percent effective on January 1, 2002;
- (2) reduce out-of-pocket housing costs for military personnel to less than 12 percent;
- (3) reduce the financial burden of permanent-change-of-station moves on families by providing increased reimbursement of temporary lodging and subsistence expenses;
- (4) eliminate unfair provisions in current law that cause military retirees eligible for veteran's disability compensation to have their military retired pay reduced; and (5) satisfy \$95 million of the unfunded personnel requirements identified by the service chiefs.

With respect to the outcome-related goal of improving military readiness, the objective of this legislation is to:

- (1) increase funding for key readiness accounts by \$7.5 billion above the fiscal year 2001 level; and (2) improve readiness through recruitment and retention by boosting military special pays, enhancing incentives for individuals to join Reserve Officer Training Corps programs, and extending numerous enlistment and reenlistment bonuses.

With respect to the outcome-related goal of improving the modernization and eventual transformation of the armed forces and enhancing the development of ballistic missile defenses, the objective of this legislation is to:

- (1) increase funding for military procurement accounts by \$442.1 million;
- (2) satisfy more than \$250 million of the unfunded procurement requirements identified by the service chiefs;
- (3) increase funding for military research and development accounts by \$228.5 above the budget request, for a total in-

crease of \$6.7 billion above the fiscal year 2001 level; and (4) support the approach of the President's ballistic missile defense program and to increase funding for ballistic missile defense programs by \$2.9 billion above the fiscal year 2001 level. With respect to the outcome-related goal of improving military housing and facilities, the objective of this legislation is to:

(1) increase funding for military construction and military family housing programs by \$1.8 billion more than the fiscal year 2001 level; and (2) make permanent the authority provided by current law to privatize military housing.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Rule XIII, clause 3(d)(1) 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.

#### RECORD VOTES

In accordance with clause 3(b) of rule XIII of the Rules of the House of Representatives, record and voice votes were taken with respect to the committee's consideration of H.R. 2586. The record of these votes is attached to this report.

The committee ordered H.R. 2586 reported to the House with a favorable recommendation by a vote of 58-1, a quorum being present.

**COMMITTEE ON ARMED SERVICES**  
**107TH CONGRESS**  
**ROLL CALL**

**Amendment Number: 18****Date: 8/1/01****B-1****Offered by: Chambliss**Voice Vote         **Ayes**         **Nays**

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Stump		X		Mr. Skelton		X	
Mr. Spence				Mr. Spratt		X	
Mr. Hunter	X			Mr. Ortiz		X	
Mr. Hansen	X			Mr. Evans		X	
Mr. Weldon		X		Mr. Taylor	X		
Mr. Hefley		X		Mr. Abercrombie	X		
Mr. Saxton		X		Mr. Meehan		X	
Mr. McHugh	X			Mr. Underwood	X		
Mr. Everett		X		Mr. Blagojevich		X	
Mr. Bartlett		X		Mr. Reyes	X		
Mr. McKeon	X			Mr. Allen		X	
Mr. Watts	X			Mr. Snyder		X	
Mr. Thornberry		X		Mr. Turner		X	
Mr. Hostettler	X			Mr. Smith		X	
Mr. Chambliss	X			Ms. Sanchez		X	
Mr. Hilleary	X			Mr. Maloney		X	
Mr. Scarborough	X			Mr. McIntyre	X		
Mr. Jones	X			Mr. Rodriguez	X		
Mr. Graham	X			Ms. McKinney	X		
Mr. Ryun	X			Ms. Tauscher		X	
Mr. Riley	X			Mr. Brady		X	
Mr. Gibbons	X			Mr. Andrews		X	
Mr. Hayes	X			Mr. Hill		X	
Mrs. Wilson				Mr. Thompson	X		
Mr. Calvert	X			Mr. Larson (CT)	X		
Mr. Simmons		X		Mrs. Davis (CA)		X	
Mr. Crenshaw	X			Mr. Langevin		X	
Mr. Kirk		X		Mr. Larsen (WA)		X	
Mrs. Davis (VA)		X					
Mr. Schrock	X						
Mr. Akin	X						
Mr. Forbes	X						

**Roll Call Vote Total**         **29 Aye**         **29 Nay**         **Present**

**COMMITTEE ON ARMED SERVICES**  
**107TH CONGRESS**  
**ROLL CALL**

Date: 8/1/01

Motion to reconsider vote  
on Amendment 18

Offered by: Everett

Voice Vote      Ayes        Nays  

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Stump		X		Mr. Skelton		X	
Mr. Spence				Mr. Spratt		X	
Mr. Hunter	X			Mr. Ortiz	X		
Mr. Hansen	X			Mr. Evans		X	
Mr. Weldon		X		Mr. Taylor	X		
Mr. Hefley		X		Mr. Abercrombie	X		
Mr. Saxton	X			Mr. Meehan		X	
Mr. McHugh	X			Mr. Underwood	X		
Mr. Everett	X			Mr. Blagojevich		X	
Mr. Bartlett		X		Mr. Reyes	X		
Mr. McKeon	X			Mr. Allen		X	
Mr. Watts	X			Mr. Snyder		X	
Mr. Thornberry		X		Mr. Turner		X	
Mr. Hostettler	X			Mr. Smith		X	
Mr. Chambliss	X			Ms. Sanchez	X		
Mr. Hilleary	X			Mr. Maloney		X	
Mr. Scarborough	X			Mr. McIntyre	X		
Mr. Jones	X			Mr. Rodriguez	X		
Mr. Graham	X			Ms. McKinney	X		
Mr. Ryun	X			Ms. Tauscher		X	
Mr. Riley	X			Mr. Brady		X	
Mr. Gibbons	X			Mr. Andrews		X	
Mr. Hayes	X			Mr. Hill		X	
Mrs. Wilson	X			Mr. Thompson	X		
Mr. Calvert	X			Mr. Larson (CT)	X		
Mr. Simmons		X		Mrs. Davis (CA)		X	
Mr. Crenshaw	X			Mr. Langevin		X	
Mr. Kirk		X		Mr. Larsen (WA)		X	
Mrs. Davis (VA)	X						
Mr. Schrock	X						
Mr. Akin		X					
Mr. Forbes	X						

Roll Call Vote Total      33 Aye        26 Nay        Present



**COMMITTEE ON ARMED SERVICES**  
**107TH CONGRESS**  
**ROLL CALL**

Amendment Number: 55

Date: 8/1/01

Vieques

Offered by: Reyes

Voice Vote         Ayes         Nays

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Stump		X		Mr. Skelton	X		
Mr. Spence				Mr. Spratt	X		
Mr. Hunter		X		Mr. Ortiz	X		
Mr. Hansen		X		Mr. Evans	X		
Mr. Weldon		X		Mr. Taylor		X	
Mr. Hefley		X		Mr. Abercrombie	X		
Mr. Saxton		X		Mr. Meehan	X		
Mr. McHugh		X		Mr. Underwood	X		
Mr. Everett		X		Mr. Blagojevich			
Mr. Bartlett		X		Mr. Reyes	X		
Mr. McKeon		X		Mr. Allen	X		
Mr. Watts		X		Mr. Snyder	X		
Mr. Thornberry		X		Mr. Turner		X	
Mr. Hostettler		X		Mr. Smith			
Mr. Chambliss		X		Ms. Sanchez	X		
Mr. Hilleary		X		Mr. Maloney	X		
Mr. Scarborough				Mr. McIntyre		X	
Mr. Jones		X		Mr. Rodriguez	X		
Mr. Graham		X		Ms. McKinney	X		
Mr. Ryun		X		Ms. Tauscher		X	
Mr. Riley		X		Mr. Brady	X		
Mr. Gibbons		X		Mr. Andrews	X		
Mr. Hayes		X		Mr. Hill		X	
Mrs. Wilson				Mr. Thompson	X		
Mr. Calvert		X		Mr. Larson (CT)	X		
Mr. Simmons		X		Mrs. Davis (CA)	X		
Mr. Crenshaw		X		Mr. Langevin	X		
Mr. Kirk		X		Mr. Larsen (WA)		X	
Mrs. Davis (VA)		X					
Mr. Schrock		X					
Mr. Akin		X					
Mr. Forbes		X					

Roll Call Vote Total         20 Aye         35 Nay         Present



**COMMITTEE ON ARMED SERVICES**  
**107TH CONGRESS**  
**ROLL CALL**

**Amendment Number: 40**  
**Abortion in Overseas Facilities**

**Date: 8/1/01**  
**Offered by: Sanchez**

Voice Vote    Ayes    Nays

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Stump		X		Mr. Skelton		X	
Mr. Spence				Mr. Spratt	X		
Mr. Hunter		X		Mr. Ortiz		X	
Mr. Hansen		X		Mr. Evans	X		
Mr. Weldon		X		Mr. Taylor		X	
Mr. Hefley		X		Mr. Abercrombie	X		
Mr. Saxton		X		Mr. Meehan	X		
Mr. McHugh		X		Mr. Underwood		X	
Mr. Everett		X		Mr. Blagojevich			
Mr. Bartlett		X		Mr. Reyes	X		
Mr. McKeon		X		Mr. Allen	X		
Mr. Watts		X		Mr. Snyder	X		
Mr. Thornberry		X		Mr. Turner	X		
Mr. Hostettler		X		Mr. Smith	X		
Mr. Chambliss		X		Ms. Sanchez	X		
Mr. Hilleary		X		Mr. Maloney	X		
Mr. Scarborough		X		Mr. McIntyre		X	
Mr. Jones		X		Mr. Rodriguez	X		
Mr. Graham		X		Ms. McKinney	X		
Mr. Ryun		X		Ms. Tauscher	X		
Mr. Riley		X		Mr. Brady	X		
Mr. Gibbons		X		Mr. Andrews	X		
Mr. Hayes		X		Mr. Hill	X		
Mrs. Wilson		X		Mr. Thompson	X		
Mr. Calvert		X		Mr. Larson (CT)	X		
Mr. Simmons	X			Mrs. Davis (CA)	X		
Mr. Crenshaw		X		Mr. Langevin		X	
Mr. Kirk	X			Mr. Larsen (WA)	X		
Mrs. Davis (VA)		X					
Mr. Schrock		X					
Mr. Akin		X					
Mr. Forbes		X					

**Roll Call Vote Total    23 Aye 35 Nay    Present**

**COMMITTEE ON ARMED SERVICES**  
**107TH CONGRESS**  
**ROLL CALL**

Amendment Number: 63

Date: 8/1/01

BMD

Offered by: Spratt

Voice Vote      Ayes      Nays

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Stump		X		Mr. Skelton	X		
Mr. Spence				Mr. Spratt	X		
Mr. Hunter		X		Mr. Ortiz	X		
Mr. Hansen		X		Mr. Evans	X		
Mr. Weldon		X		Mr. Taylor	X		
Mr. Hefley		X		Mr. Abercrombie	X		
Mr. Saxton		X		Mr. Meehan	X		
Mr. McHugh		X		Mr. Underwood	X		
Mr. Everett		X		Mr. Blagojevich	X		
Mr. Bartlett		X		Mr. Reyes	X		
Mr. McKeon		X		Mr. Allen	X		
Mr. Watts		X		Mr. Snyder	X		
Mr. Thornberry		X		Mr. Turner	X		
Mr. Hostettler		X		Mr. Smith	X		
Mr. Chambliss		X		Ms. Sanchez	X		
Mr. Hilleary		X		Mr. Maloney	X		
Mr. Scarborough		X		Mr. McIntyre	X		
Mr. Jones		X		Mr. Rodriguez	X		
Mr. Graham		X		Ms. McKinney	X		
Mr. Ryun		X		Ms. Tauscher	X		
Mr. Riley		X		Mr. Brady	X		
Mr. Gibbons		X		Mr. Andrews	X		
Mr. Hayes		X		Mr. Hill	X		
Mrs. Wilson		X		Mr. Thompson	X		
Mr. Calvert		X		Mr. Larson (CT)	X		
Mr. Simmons		X		Mrs. Davis (CA)	X		
Mr. Crenshaw		X		Mr. Langevin	X		
Mr. Kirk		X		Mr. Larsen (WA)	X		
Mrs. Davis (VA)		X					
Mr. Schrock		X					
Mr. Akin		X					
Mr. Forbes		X					

Roll Call Vote Total      28 Aye 31 Nay      Present

**COMMITTEE ON ARMED SERVICES**  
**107TH CONGRESS**  
**ROLL CALL**

Final Passage of H.R. 2586

Date: 8/1/01

Voice Vote      Ayes      Nays

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Stump	X			Mr. Skelton	X		
Mr. Spence				Mr. Spratt	X		
Mr. Hunter	X			Mr. Ortiz	X		
Mr. Hansen	X			Mr. Evans	X		
Mr. Weldon	X			Mr. Taylor	X		
Mr. Hefley	X			Mr. Abercrombie	X		
Mr. Saxton	X			Mr. Meehan	X		
Mr. McHugh	X			Mr. Underwood	X		
Mr. Everett	X			Mr. Blagojevich	X		
Mr. Bartlett	X			Mr. Reyes	X		
Mr. McKeon	X			Mr. Allen	X		
Mr. Watts	X			Mr. Snyder	X		
Mr. Thornberry	X			Mr. Turner	X		
Mr. Hostettler	X			Mr. Smith	X		
Mr. Chambliss	X			Ms. Sanchez	X		
Mr. Hilleary	X			Mr. Maloney	X		
Mr. Scarborough	X			Mr. McIntyre	X		
Mr. Jones	X			Mr. Rodriguez	X		
Mr. Graham	X			Ms. McKinney		X	
Mr. Ryun	X			Ms. Tauscher	X		
Mr. Riley	X			Mr. Brady	X		
Mr. Gibbons	X			Mr. Andrews	X		
Mr. Hayes	X			Mr. Hill	X		
Mrs. Wilson	X			Mr. Thompson	X		
Mr. Calvert	X			Mr. Larson (CT)	X		
Mr. Simmons	X			Mrs. Davis (CA)	X		
Mr. Crenshaw	X			Mr. Langevin	X		
Mr. Kirk	X			Mr. Larsen (WA)	X		
Mrs. Davis (VA)	X						
Mr. Schrock	X						
Mr. Akin	X						
Mr. Forbes	X						

Roll Call Vote Total      **58 Aye** **1 Nay**      Present

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL  
YEAR 1995**

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF  
DEFENSE AUTHORIZATIONS**

**TITLE I—PROCUREMENT**

\* \* \* \* \*

**Subtitle B—Army Programs**

\* \* \* \* \*

**[SEC. 116. BUNKER DEFEAT MUNITION ACQUISITION PROGRAM.**

**【The Secretary of the Army, in acquiring munitions under the bunker defeat munition weapons acquisition program—**

**【(1) may acquire only those munitions that are designated as “type classified, limited procurement for contingency operations”; and**

**【(2) may not acquire more than 8,500 such munitions.】**

\* \* \* \* \*

**TITLE IX—DEPARTMENT OF DEFENSE  
ORGANIZATION AND MANAGEMENT**

\* \* \* \* \*

**Subtitle B—Professional Military  
Education**

\* \* \* \* \*

**[SEC. 912. BOARD OF ADVISORS FOR MARINE CORPS UNIVERSITY.**

**【The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.】**

\* \* \* \* \*

---

TITLE 10, UNITED STATES CODE

\* \* \* \* \*

Subtitle A—General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

Chap. 1. Definitions ..... Sec. 101
\* \* \* \* \*

PART II—PERSONNEL

56. Department of Defense Medicare-Eligible Retiree Health Care Fund .....1111[.]
\* \* \* \* \*

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

135. Space Programs ..... 2271
\* \* \* \* \*

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

\* \* \* \* \*

CHAPTER 2—DEPARTMENT OF DEFENSE

\* \* \* \* \*

§ 115. Personnel strengths: requirement for annual authorization

(a) \* \* \*

\* \* \* \* \*

(c) Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than [1] 2 percent of that end strength;

\* \* \* \* \*

(d) In counting active-duty personnel for the purpose of the end-strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) \* \* \*

\* \* \* \* \*

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

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

\* \* \* \* \*

**§ 118. Quadrennial defense review**

(a) \* \* \*

\* \* \* \* \*

(e) CJCS REVIEW.—(1) Upon the completion of each review under subsection (a), the Chairman of the Joint Chiefs of Staff shall prepare and submit to the Secretary of Defense the Chairman’s assessment of the review, including the Chairman’s assessment of risk.

(2) *As part of his assessment under paragraph (1), the Chairman shall provide his assessment of the assignment of functions (or roles and missions) to the armed forces and such recommendations for changes thereto as the Chairman considers necessary to achieve maximum efficiency of the armed forces. In preparing such assessment, the Chairman shall consider (among other matters) the following:*

- (A) *Unnecessary duplication of effort among the armed forces.*
- (B) *Changes in technology that can be applied effectively to warfare.*

(3) The Chairman’s assessment shall be submitted to the Secretary in time for the inclusion of the assessment in the report. The Secretary shall include the Chairman’s assessment, together with the Secretary’s comments, in the report in its entirety.

\* \* \* \* \*

**§ 119. Special access programs: congressional oversight**

(a) \* \* \*

\* \* \* \* \*

(g) In this section, the term “defense committees” means—

- (1) \* \* \*
- (2) the Committee on Armed Services and the Committee on Appropriations, and the [National Security Subcommittee] *Subcommittee on Defense* of the Committee on Appropriations, of the House of Representatives.

\* \* \* \* \*

**CHAPTER 3—GENERAL POWERS AND FUNCTIONS**

\* \* \* \* \*

**§ 123. Authority to suspend officer personnel laws during war or national emergency**

(a) \* \* \*

\* \* \* \* \*

(d) *Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection*

*for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days of the date of such termination.*

\* \* \* \* \*

**§ 130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations**

(a) \* \* \*

(b) INFORMATION ELIGIBLE FOR EXEMPTION.—For the purposes of this section, information is sensitive information of a foreign government only if the national security official concerned makes each of the following determinations with respect to the information:

(1) \* \* \*

\* \* \* \* \*

(3) That any of the following conditions are met:

(A) \* \* \*

\* \* \* \* \*

(C) The information is an item of information, or is in a category of information, that the national security official concerned has specified in regulations prescribed under subsection [(f)] (g) as being information the release of which would have an adverse effect on the ability of the United States Government to obtain the same or similar information in the future.

\* \* \* \* \*

(d) LIMITATIONS.—(1) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government before [the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001] *October 30, 2000*, and more than 25 years before the request is received by an agency, the information may be withheld only as set forth in paragraph (3).

\* \* \* \* \*

**CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE**

Sec.

131. Office of the Secretary of Defense.

\* \* \* \* \*

**[137. Director of Defense Research and Engineering.]**

137. *Under Secretary of Defense for Space, Intelligence, and Information.*

\* \* \* \* \*

139a. *Director of Defense Research and Engineering.*

\* \* \* \* \*

**§ 131. Office of the Secretary of Defense**

(a) \* \* \*

(b) The Office of the Secretary of Defense is composed of the following:

(1) \* \* \*

\* \* \* \* \*

(6) *The Under Secretary of Defense for Space, Intelligence, and Information.*

[(6)] (7) The Director of Defense Research and Engineering.

[(7)] (8) The Assistant Secretaries of Defense.

[(8)] (9) The Director of Operational Test and Evaluation.

[(9)] (10) The General Counsel of the Department of Defense.

[(10)] (11) The Inspector General of the Department of Defense.

[(11)] (12) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

\* \* \* \* \*

**§ 133a. Deputy Under Secretary of Defense for Acquisition and Technology**

(a) \* \* \*

(b) The Deputy Under Secretary of Defense for Acquisition and Technology [shall assist the Under Secretary of Defense for Acquisition and Technology] *shall assist the Under Secretary of Defense for Acquisition, Technology, and Logistics* in the performance of the Under Secretary's duties relating to acquisition and technology.

\* \* \* \* \*

**§ 137. Under Secretary of Defense for Space, Intelligence, and Information**

(a) *There is an Under Secretary of Defense for Space, Intelligence, and Information, appointed from civilian life by the President, by and with the advice and consent of the Senate.*

(b) *Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Space, Intelligence, and Information shall perform such duties and exercise such powers relating to the space, intelligence, and information programs and activities of the Department of Defense as the Secretary of Defense may prescribe.*

(c) *The Secretary of Defense shall designate the Under Secretary of Defense for Space, Intelligence, and Information as the Chief Information Officer of the Department of Defense under section 3506(a)(2)(B) of title 44.*

(d) *The Under Secretary of Defense for Space, Intelligence, and Information takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.*

\* \* \* \* \*

**§ 138. Assistant Secretaries of Defense**

(a) There are [nine] *eleven* Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.



(b)(1) \* \* \*

\* \* \* \* \*

(3) *Not more than three of the Assistant Secretaries may be assigned duties under the authority of the Under Secretary of Defense for Space, Intelligence, and Information and shall report to that Under Secretary.*

\* \* \* \* \*

**§ 139. Director of Operational Test and Evaluation**

(a) \* \* \*

\* \* \* \* \*

(c) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Director shall consult closely with, but the Director and the Director's staff are independent of, the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics* and all other officers and entities of the Department of Defense responsible for acquisition.

\* \* \* \* \*

(f) The Director shall prepare an annual report summarizing the operational test and evaluation activities (including live fire testing activities) of the Department of Defense during the preceding fiscal year. Each such report shall be submitted concurrently to the Secretary of Defense, the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics*, and the Congress not later than 10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31. If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress. The report shall include such comments and recommendations as the Director considers appropriate, including comments and recommendations on resources and facilities available for operational test and evaluation and levels of funding made available for operational test and evaluation activities. The Secretary may comment on any report of the Director to Congress under this subsection.

\* \* \* \* \*

**§ [137.] 139a. Director of Defense Research and Engineering**

(a) There is a Director of Defense Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

\* \* \* \* \*

**CHAPTER 5—JOINT CHIEFS OF STAFF**

\* \* \* \* \*

**§ 153. Chairman: functions**

(a) \* \* \*

[(b) REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—(1) Not less than once every three years, or upon the request of the President or the Secretary of Defense, the Chairman shall submit to the Secretary of Defense a report containing such recommendations for changes in the assignment of functions (or roles and missions) to the armed forces as the Chairman considers necessary to achieve maximum effectiveness of the armed forces. In preparing each such report, the Chairman shall consider (among other matters) the following:

[(A) Changes in the nature of the threats faced by the United States.

[(B) Unnecessary duplication of effort among the armed forces.

[(C) Changes in technology that can be applied effectively to warfare.

[(2) The Chairman shall include in each such report recommendations for such changes in policies, directives, regulations, and legislation as may be necessary to achieve the changes in the assignment of functions recommended by the Chairman.]

\* \* \* \* \*

**CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES**

\* \* \* \* \*

**§ 171. Armed Forces Policy Council**

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

(1) \* \* \*

\* \* \* \* \*

(3) the [(Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics*;

\* \* \* \* \*

**§ 176. Armed Forces Institute of Pathology**

(a)(1) \* \* \*

\* \* \* \* \*

(3) The Board of Governors shall consist of the Assistant Secretary of Defense for Health Affairs, who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health and Human Services for Health, the Surgeons General of the Army, Navy, and Air Force, the [(Chief Medical Director] *Under Secretary for Health* of the Department of Veterans Affairs, and a former Di-

rector of the Institute, as designated by the Secretary of Defense, or the designee of any of the foregoing.

\* \* \* \* \*

**§ 179. Nuclear Weapons Council**

(a) There is a Joint Nuclear Weapons Council (hereinafter in this section referred to as the “Council”) composed of three members as follows:

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

\* \* \* \* \*

**§ 184. Department of Defense regional centers for security studies**

(a) **ADVANCE NOTIFICATION TO CONGRESS OF THE ESTABLISHMENT OF NEW REGIONAL CENTERS.**—After **the date of the enactment of this section,** *October 30, 2000*, a regional center for security studies may not be established in the Department of Defense until—

(1) the Secretary of Defense submits to Congress a notification of the intent of the Secretary to establish the center, including a description of the mission and functions of the proposed center and a justification for the proposed center; and

(2) a period of 90 days has elapsed after the date on which that notification is submitted.

\* \* \* \* \*

**CHAPTER 9—DEFENSE BUDGET MATTERS**

Sec.

221. Future-years defense program: submission to Congress; consistency in budgeting.

\* \* \* \* \*

**223.** Ballistic missile defense programs: program elements.

**224.** Ballistic missile defense programs: display of amounts for procurement.]

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

\* \* \* \* \*

**§ 223. Ballistic missile defense programs: program elements**

**[(a) PROGRAM ELEMENTS SPECIFIED.**—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

- [(1) The Patriot system.**
- [(2) The Navy Area system.**
- [(3) The Theater High-Altitude Area Defense system.**
- [(4) The Navy Theater Wide system.**
- [(5) The Medium Extended Air Defense System.**
- [(6) Joint Theater Missile Defense.**
- [(7) National Missile Defense.**

- [(8) Support Technologies.
- [(9) Family of Systems Engineering and Integration.
- [(10) Ballistic Missile Defense Technical Operations.
- [(11) Threat and Countermeasures.
- [(12) International Cooperative Programs.

[(b) TREATMENT OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.

[(c) MANAGEMENT AND SUPPORT.—The amount requested for each program element specified in subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.]

**[\$ 224. Ballistic missile defense programs: display of amounts for procurement]**

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

(a) REQUIREMENT.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for [procurement] *research, development, test, and evaluation* for a Department of Defense missile defense program described in subsection (b) shall be set forth under the account of the Department of Defense for Defense-wide [procurement] *research, development, test, and evaluation* and, within that account, under the subaccount (or other budget activity level) for the Ballistic Missile Defense Organization.

[(b) COVERED PROGRAMS.—Subsection (a) applies to the following missile defense programs of the Department of Defense:

- [(1) The National Missile Defense Program.
- [(2) Any system that is part of the core theater missile defense program.
- [(3) Any other ballistic missile defense program that enters production after the date of the enactment of this section and for which research, development, test, and evaluation was carried out by the Ballistic Missile Defense Organization.

[(c) CORE THEATER BALLISTIC MISSILE DEFENSE PROGRAM.—For purposes of this section, the core theater missile defense program consists of the systems specified in section 234 of the Ballistic Missile Defense Act of 1995 (10 U.S.C. 2431 note).]

(b) COVERED PROGRAMS.—Subsection (a) applies to any ballistic missile defense program for which research, development, test, and evaluation is carried out by the Ballistic Missile Defense Organization.

\* \* \* \* \*

**CHAPTER 22—NATIONAL IMAGERY AND MAPPING AGENCY**

\* \* \* \* \*

## SUBCHAPTER III—PERSONNEL MANAGEMENT

- Sec.  
 461. Management rights.  
 462. Undergraduate training program.

\* \* \* \* \*

**§462. Undergraduate training program**

(a) *AUTHORITY TO CARRY OUT PROGRAM.*—The Secretary of Defense may authorize the Director of the National Imagery and Mapping Agency to establish an undergraduate training program under which civilian employees of the National Imagery and Mapping Agency may be assigned as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the National Imagery and Mapping Agency. Such training may lead to the award of a baccalaureate degree.

(b) *PURPOSE.*—The purpose of the program authorized by subsection (a) is to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Imagery and Mapping Agency, including skills in mathematics, computer science, engineering, and foreign languages.

(c) *REQUIREMENTS.*—(1) To be eligible for assignment under subsection (a), an employee of the National Imagery and Mapping Agency must agree in writing—

(A) to continue in the service of the National Imagery and Mapping Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

(B) to continue in the service of the National Imagery and Mapping Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, before the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the National Imagery and Mapping Agency is terminated either by the National Imagery and Mapping Agency due to misconduct by the employee or by the employee voluntarily; and

(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the National Imagery and Mapping Agency is terminated either by the National Imagery and Mapping Agency due to misconduct by the employee or by the employee voluntarily, before the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary determines that equity or the interests of the United States so require.

(C) The Secretary of Defense shall permit an employee assigned under this section who, before commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the National Imagery and Mapping Agency, to satisfy his obligation under an agreement described in paragraph (1) by reimbursing the United States according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

(d) **DISCLOSURE REQUIRED.**—(1) When an employee is assigned under this section to an institution, the Secretary shall disclose to the institution to which the employee is assigned that the National Imagery and Mapping Agency employs the employee and that the National Imagery and Mapping Agency funds the employee's education.

(2) Efforts by the Secretary to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

(e) **APPROPRIATION OF FUNDS REQUIRED.**—The Secretary may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (a), in any fiscal year only to the extent that appropriated funds are available for such purpose.

(f) **INAPPLICABILITY OF CERTAIN LAWS.**—Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31 shall not apply with respect to this section.

(g) **REGULATIONS.**—The Secretary of Defense may prescribe such regulations as may be necessary to implement this section.

\* \* \* \* \*

## CHAPTER 23—MISCELLANEOUS STUDIES AND REPORTS

Sec.

480. Department of Defense reports: submission in electronic form.

\* \* \* \* \*

**§480. Department of Defense reports: submission in electronic form**

(a) *REQUIREMENT.*—Whenever the Secretary of Defense or any other official of the Department of Defense is required by law to submit a report to Congress (or any committee of either House of Congress), the Secretary or other official shall provide to Congress (or each such committee) a copy of the report in an electronic medium.

(b) *EXCEPTION.*—Subsection (a) does not apply to a report submitted in classified form.

(c) *DEFINITION.*—In this section, the term “report” includes any certification, notification, or other communication in writing.

\* \* \* \* \*

**PART II—PERSONNEL**

Chap.		Sec.
31.	Enlistments .....	501
	* * * * *	
56.	Department of Defense Medicare-Eligible Retiree Health Care Fund .....	1111[.]
	* * * * *	

**CHAPTER 31—ENLISTMENTS**

\* \* \* \* \*

The text of existing law for section 503(c) is shown to reflect the amendments made to that section by Public Law 106-398, effective July 1, 2002.

**§ 503. Enlistments: recruiting campaigns; compilation of directory information**

(a) \* \* \*

\* \* \* \* \*

(c) *ACCESS TO SECONDARY SCHOOLS.*—(1) Each local educational agency shall (except as provided under paragraph (5)) provide to the Department of Defense, upon a request made for military recruiting [purposes, the same access to secondary school students, and to directory information concerning such students, as is provided generally to post-secondary educational institutions or to prospective employers of those students.] purposes—

(A) *the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students; and*

(B) *the same access to directory information concerning those students as is provided to a post-secondary educational institution upon an indication by a secondary school student that the student seeks to enroll or intends to enroll at that institution.*

\* \* \* \* \*

(6) In this subsection:

(A) The term “local educational agency” means—

(i) a local educational agency, within the meaning of that term in section 14101[(18)] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801[(18)]); and

\* \* \* \* \*

**§ 517. Authorized daily average: members in pay grades E-8 and E-9**

(a) The authorized daily average number of enlisted members on active duty (other than for training) in an armed force in pay grades E-8 and E-9 in a fiscal year may not be more than [2 percent (or, in the case of the Army, 2.5 percent)] *2.5 percent* and 1 percent, respectively, of the number of enlisted members of that armed force who are on active duty (other than for training) on the first day of that fiscal year. In computing the limitations prescribed in the preceding sentence, there shall be excluded enlisted members of an armed force on active duty (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve component of an armed force.

\* \* \* \* \*

**§ 520c. Recruiting functions: use of funds**

(a) PROVISION OF MEALS AND REFRESHMENTS.—Under regulations prescribed by the Secretary concerned, funds appropriated to the Department of Defense for recruitment of military personnel may be expended for small meals and refreshments during recruiting functions for the following persons:

(1) \* \* \*

\* \* \* \* \*

(4) Members of the armed forces and Federal employees when attending [recruiting events] *recruiting functions* in accordance with a requirement to do so.

(5) Other persons whose presence at [recruiting efforts] *recruiting functions* will contribute to recruiting efforts.

\* \* \* \* \*

[(c) TERMINATION OF AUTHORITY.—The authority in subsection (a) may not be exercised after September 30, 2001.]

**CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE**

Sec.

521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories.

\* \* \* \* \*

[528. Limitation on number of officers on active duty in grades of general and admiral.]

\* \* \* \* \*



**§ 523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain**

(a)(1) Except as provided in subsection (c), of the total number of commissioned officers serving on active duty in the Army, Air Force, or Marine Corps at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
<b>Army:</b>			
20,000 .....	6,848	5,253	1,613
* * *	*	*	*
<b>Air Force:</b>			
35,000 .....	<b>[9,216]</b> 9,861	7,090	2,125
40,000 .....	<b>[10,025]</b> 10,727	7,478	2,306
45,000 .....	<b>[10,835]</b> 11,593	7,866	2,487
50,000 .....	<b>[11,645]</b> 12,460	8,253	2,668
55,000 .....	<b>[12,454]</b> 13,326	8,641	2,849
60,000 .....	<b>[13,264]</b> 14,192	9,029	3,030
65,000 .....	<b>[14,073]</b> 15,058	9,417	3,211
70,000 .....	<b>[14,883]</b> 15,925	9,805	3,392
75,000 .....	<b>[15,693]</b> 16,792	10,193	3,573
80,000 .....	<b>[16,502]</b> 17,657	10,582	3,754
85,000 .....	<b>[17,312]</b> 18,524	10,971	3,935
90,000 .....	<b>[18,121]</b> 19,389	11,360	4,115
95,000 .....	<b>[18,931]</b> 20,256	11,749	4,296
100,000 .....	<b>[19,741]</b> 21,123	12,138	4,477
105,000 .....	<b>[20,550]</b> 21,989	12,527	4,658
110,000 .....	<b>[21,360]</b> 22,855	12,915	4,838
115,000 .....	<b>[22,169]</b> 23,721	13,304	5,019
120,000 .....	<b>[22,979]</b> 24,588	13,692	5,200

Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
125,000 .....	<b>[23,789]</b>	14,081	5,381
	25,454		
* * *	* * *	* * *	* * *
* * *	* * *	* * *	* * *

**§ 528. Limitation on number of officers on active duty in grades of general and admiral**

[(a) LIMITATION.—The total number of officers on active duty in the Army, Air Force, and Marine Corps in the grade of general and in the Navy in the grade of admiral may not exceed 32.

[(b) EXCEPTIONS.—(1) The limitation in subsection (a) does not apply in the case of an officer serving in the grade of general or admiral in a position that is specifically exempted by law from being counted for purposes of limitations by law on the total number of officers that may be on active duty in the grades of general and admiral or the number of officers that may be on active duty in that officer’s armed force in the grade of general or admiral.

[(2) An officer continuing to hold the grade of general or admiral under section 601(b)(4) of this title after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps shall not be counted for purposes of this section.]

**CHAPTER 33—ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES**

Sec.

531. Original appointments of commissioned officers.

\* \* \* \* \*

542. *Distinguished Graduates of officer commissioning programs other than service academies and ROTC.*

\* \* \* \* \*

**§ 532. Qualifications for original appointment as a commissioned officer**

(a) \* \* \*

\* \* \* \* \*

[(e) After September 30, 1996, no person may receive an original appointment as a commissioned officer in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps until that person has completed one year of service on active duty as a commissioned officer (other than a warrant officer) of a reserve component.]

\* \* \* \* \*

**§ 542. Distinguished Graduates of officer commissioning programs other than service academies and ROTC**

*A person who is selected for an original appointment as a commissioned officer in the Army, Navy, Air Force, or Marine Corps as a result of satisfactory completion of an officer commissioning program other than the course of instruction at one of the service academies named in section 541 of this title or the Senior Reserve Officers' Training Corps program and who, under regulations prescribed by the Secretary of the military department concerned, is designated or selected as a Distinguished Graduate of that program (or the equivalent) shall be appointed as a regular officer.*

\* \* \* \* \*

**CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST**

\* \* \* \* \*

**SUBCHAPTER II—PROMOTIONS**

\* \* \* \* \*

**§ 619. Eligibility for consideration for promotion: time-in-grade and other requirements**

**[(a)(1)]** *(a) TIME-IN-GRADE REQUIREMENTS.—(1) An officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:*

**(A)** \* \* \*

**(B)** *Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade), or such shorter period as may be in effect under paragraph (6).*

\* \* \* \* \*

**(4)** *The Secretary of the military department concerned may waive paragraph (2) to the extent necessary to assure that officers described in **[clause (A)]** subparagraph (A) of such paragraph have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.*

\* \* \* \* \*

**(6)(A)** *When the needs of the service require, the Secretary of the military department concerned may reduce to eighteen months the period of service in grade applicable for purposes of paragraph (1)(B) in the case of officers who are serving in a position that is authorized for officers in the grade of captain or, in the case of the Navy, lieutenant.*

**(B)** *If the Secretary of the military department concerned uses the authority provided in subparagraph (A), the number of captains or,*

*in the case of the Navy, lieutenants on the active-duty list may not exceed the number of positions for which officers in that grade are authorized by more than one percent.*

*(C) The authority under subparagraph (A) and the limitation under subparagraph (B) expire on September 30, 2005.*

[(b)(1)] (b) *CONTINUED ELIGIBILITY FOR CONSIDERATION FOR PROMOTION OF OFFICERS WHO HAVE PREVIOUSLY FAILED OF SELECTION.—(1) Except as provided in paragraph (2), an officer who has failed of selection for promotion to the next higher grade remains eligible for consideration for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted.*

\* \* \* \* \*

[(c)(1)] (c) *OFFICERS TO BE CONSIDERED BY PROMOTION BOARDS.—(1) Each time a selection board is convened under section 611(a) of this title for consideration of officers in a competitive category for promotion to the next higher grade, each officer in the promotion zone (except as provided under paragraph (2)), and each officer above the promotion zone, for the grade and competitive category under consideration shall be considered for promotion.*

\* \* \* \* \*

(d) *CERTAIN OFFICERS NOT TO BE CONSIDERED.—A selection board convened under section 611(a) of this title may not consider for promotion to the next higher grade any of the following officers:*

(1) \* \* \*

\* \* \* \* \*

**§ 619a. Eligibility for consideration for promotion: joint duty assignment required before promotion to general or flag grade; exceptions**

(a) *GENERAL RULE.—An officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may not be appointed to the grade of brigadier general or rear admiral (lower half) [unless the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title).] unless—*

*(1) the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title); and*

*(2) for appointments after September 30, 2007, the officer has been selected for the joint specialty in accordance with section 661 of this title.*

(b) *EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense [may waive subsection (a) in the following circumstances:] may waive paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a), in the following circumstances (except that paragraph (2) of subsection (a) may not be waived by reason of paragraph (4)):*

(1) \* \* \*

\* \* \* \* \*

**SUBCHAPTER IV—CONTINUATION ON ACTIVE DUTY AND SELECTIVE EARLY RETIREMENT**

\* \* \* \* \*

**§ 638a. Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges**

(a) The Secretary of Defense may authorize the Secretary of a military department, during the period beginning on October 1, 1990, and ending on December 31, ~~2001~~ 2002, to take any of the actions set forth in subsection (b) with respect to officers of an armed force under the jurisdiction of that Secretary.

\* \* \* \* \*

**§ 640. Deferment of retirement or separation for medical reasons**

【The Secretary of the military department concerned may defer the retirement or separation under this title of any officer if the evaluation of the physical condition of the officer and determination of the officer’s entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date on which the officer would otherwise be required to retire or be separated under this title.】

*(a) If the Secretary of the military department concerned determines that the evaluation of the physical condition of an officer and determination of the officer’s entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the member’s well being before the date on which the officer would otherwise be required to retire or be separated under this title, the Secretary may defer the retirement or separation of the officer under this title.*

*(b) A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.*

SUBCHAPTER V—ADDITIONAL PROVISIONS RELATING TO PROMOTION, SEPARATION, AND RETIREMENT

\* \* \* \* \*

**§ 641. Applicability of chapter**

Officers in the following categories are not subject to this chapter (other than section 640 and, in the case of warrant officers, section 628):

- (1) Reserve officers—
  - (A) \* \* \*

\* \* \* \* \*

【(D) on the reserve active-status list who are on active duty under section 12301(d) of this title, other than as provided in subparagraph (C), under a call or order to active duty specifying a period of three years or less;】

*(D) on active duty under section 12301(d) of this title, other than as provided under subparagraph (C), if the call or order to active duty, under regulations prescribed by the*

*Secretary concerned, specifies a period of three years or less and continued placement on the reserve active-status list;*

\* \* \* \* \*

**CHAPTER 38—JOINT OFFICER MANAGEMENT**

\* \* \* \* \*

**§ 661. Management policies for joint specialty officers**

(a) \* \* \*

(b) NUMBERS AND SELECTION.—(1) \* \* \*

(2) Officers shall be selected for the joint specialty by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff. **[The Secretaries of the military departments shall nominate officers for selection for the joint specialty. Nominations shall be made from among officers—]** *Each officer on the active-duty list on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 who has not before that date been nominated for the joint specialty by the Secretary of a military department, and each officer who is placed on the active-duty list after such date, who meets the requirements of subsection (c) shall automatically be considered to have been nominated for the joint specialty. From among those officers considered to be nominated for the joint specialty, the Secretary may select for the joint specialty only officers—*

(A) \* \* \*

\* \* \* \* \*

**§ 663. Education**

(a) \* \* \*

\* \* \* \* \*

(e) DURATION OF PRINCIPAL COURSE OF INSTRUCTION AT **[ARMED FORCES STAFF COLLEGE]** *JOINT FORCES STAFF COLLEGE*.—(1) The duration of the principal course of instruction offered at the **[Armed Forces Staff College]** *Joint Forces Staff College* may not be less than three months.

\* \* \* \* \*

**§ 664. Length of joint duty assignments**

(a) \* \* \*

\* \* \* \* \*

(i) JOINT DUTY CREDIT FOR CERTAIN JOINT TASK FORCE ASSIGNMENTS.—(1) \* \* \*

\* \* \* \* \*

(4) The Secretary of Defense shall prescribe by regulation criteria for determining whether an officer may be granted credit under paragraph (1) with respect to service in a qualifying temporary joint task force assignment. The criteria shall apply uniformly among the armed forces and shall include the following requirements:

(A) \* \* \*

\* \* \* \* \*

(E) **【The】** *Except as provided in subparagraph (F), the joint task force must conduct combat or combat-related operations in a unified action under joint or multinational command and control.*

(F) *Service in a temporary joint task force assignment not involved in combat or combat-related operations may not be credited for the purposes of joint duty, unless, and only if—*

(i) *the service of the officer and the nature of the joint task force not only meet all criteria of this section, except subparagraph (E), but also any additional criteria the Secretary may establish;*

(ii) *the Secretary has specifically approved the operation conducted by the joint task force as one that qualifies for joint service credit, and notifies Congress upon each approval, providing the criteria that led to that approval; and*

(iii) *the operation is conducted by the joint task force in an environment where an extremely fragile state of peace and high potential for hostilities coexist.*

\* \* \* \* \*

**§ 667. Annual report to Congress**

The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps):

(1)(A) *The number of officers selected for the joint specialty and their education and experience.*

(B) *The number of officers who meet the criteria for selection for the joint specialty but were not selected, together with the reasons why.*

**【(2) The military occupational specialties within each of the armed forces that have been designated as critical occupational specialties under section 661(c)(2) of this title, separately identifying those specialties for which there is a severe shortage of trained officers, together with an explanation of how those specialties meet the criteria for that designation in section 661(c)(2)(B) of this title.】**

(2) *The number of officers with the joint specialty, shown by grade and branch or specialty and by education.*

(3) *The number of officers on the active-duty list with a military occupational specialty designated under section 661(c)(2) of this title as a critical occupational specialty who—*

(A) *have been **【nominated】** selected for the joint specialty;*

(B) *have been **【nominated】** selected for the joint specialty and are serving in a joint duty assignment;*

\* \* \* \* \*

(D) *have completed an appropriate program at a joint professional military education school; and*

[(E) have been selected for the joint specialty; and]

[(F)] (E) have served, or are serving in, a second joint duty assignment after being selected for the joint specialty, with the number of such officers who have served, or are serving, in a critical joint duty assignment shown separately for general and flag officers, and for all other officers.

(4) For each fiscal year—

(A) the number of officers [nominated] selected for the joint specialty and, of those, the number who have a military occupational specialty designated as a critical occupational specialty; and

\* \* \* \* \*

(14)(A) An analysis of the extent to which the Secretary of each military department is providing officers to fill that department's share (as determined by law or by the Secretary of Defense) of Joint Staff and other joint duty assignments, including the reason for any significant failure by a military department to fill its share of such positions and a discussion of the actions being taken to correct the shortfall.

(B) An assessment of the extent to which the Secretary of each military department is assigning personnel to joint duty assignments in accordance with this chapter and the policies, procedures, and practices established by the Secretary of Defense under section 661(a) of this title.

\* \* \* \* \*

(16) The number of officers granted credit for service in joint duty assignments under [section 664(i)] subparagraphs (E) and (F) of section 664(i)(4) of this title and—

(A) \* \* \*

(B) the identity of each operation for which an officer has been granted credit pursuant to [section 664(i)] subparagraphs (E) and (F) of section 664(i)(4) of this title and a brief description of the mission of the operation.

(17) With regard to each time the principal course of instruction at the [Armed Forces Staff College] Joint Forces Staff College is offered—

(A) \* \* \*

(B) the number of those officers as a percentage of all officers who attended that course of instruction at the [Armed Forces Staff College] Joint Forces Staff College;

\* \* \* \* \*

**CHAPTER 39—ACTIVE DUTY**

\* \* \* \* \*

**§ 691. Permanent end strength levels to support two major regional contingencies**

(a) \* \* \*

(b) Unless otherwise provided by law, the number of members of the armed forces (other than the Coast Guard) on active duty at the end of any fiscal year shall be not less than the following:



(1) \* \* \*

(2) For the Navy, **[372,000]** 376,000.

\* \* \* \* \*

(4) For the Air Force, **[357,000]** 358,800.

\* \* \* \* \*

**CHAPTER 47—UNIFORM CODE OF MILITARY JUSTICE**

\* \* \* \* \*

**SUBCHAPTER II—APPREHENSION AND RESTRAINT**

\* \* \* \* \*

**§ 814. Art. 14. Delivery of offenders to civil authorities**

(a) \* \* \*

\* \* \* \* \*

*(c) The Secretary of Defense shall ensure that the Secretaries of the military departments prescribe regulations under subsection (a) and that those regulations are uniform throughout the armed forces under the jurisdiction of the Secretary of Defense. Those regulations shall—*

*(1) specifically provide for the delivery to the appropriate civil authority for trial, in any appropriate case, of a member accused by civil authority of parental kidnapping or a similar offense, including criminal contempt arising from any such offense or from child custody matters; and*

*(2) specifically address the special needs for the exercise of the authority contained in this section (article) in a case in which a member of the armed forces assigned overseas is accused of an offense by civil authority.*

**SUBCHAPTER IV—COURT-MARTIAL JURISDICTION**

\* \* \* \* \*

**§ 816. Art. 16. Courts-martial classified**

The three kinds of courts-martial in each of the armed forces are—

(1) general courts-martial, consisting of—

*(A) a military judge and not less than five members or, in a case in which the accused may be sentenced to a penalty of death, the number of members determined under section 825a of this title (article 25a); or*

\* \* \* \* \*

**SUBCHAPTER V—COMPOSITION OF COURTS-MARTIAL**

Sec. Art.

822. 22. Who may convene general courts-martial.

\* \* \* \* \*

825a. 25a. Number of members in capital cases.

\* \* \* \* \*

**§ 825a. Art. 25a. Number of members in capital cases**

*In a case in which the accused may be sentenced to a penalty of death, the number of members shall be not less than 12, unless 12 members are not reasonably available because of physical conditions or military exigencies, in which case the convening authority shall specify a lesser number of members not less than five, and the court may be assembled and the trial held with not less than the number of members so specified. In such a case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.*

\* \* \* \* \*

**§ 829. Art. 29. Absent and additional members**

(a) \* \* \*

(b)(1) Whenever a general court-martial, other than a general court-martial composed of a military judge only, is reduced below **[five members]** *the applicable minimum number of members*, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than **[five members]** *the applicable minimum number of members*. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides.

(2) *In this section, the term “applicable minimum number of members” means five members or, in a case in which the death penalty may be adjudged, the number of members determined under section 825a of this title (article 25a).*

\* \* \* \* \*

**SUBCHAPTER VII—TRIAL PROCEDURE**

Sec. Art.

836. 36. President may prescribe rules.

\* \* \* \* \*

852a. 52a. *Right of accused to request sentencing by military judge rather than by members.*

\* \* \* \* \*

**§ 852a. Art. 52a. Right of accused to request sentencing by military judge rather than by members**

*(a) In the case of an accused convicted of an offense by a court-martial composed of a military judge and members, the sentence shall be tried before and adjudged by the military judge rather than the members if, after the findings are announced and before evidence in the sentencing proceeding is introduced, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing that the sentence be tried before and adjudged by the military judge rather than the members.*

*(b) This section shall not apply with respect to an offense for which the death penalty may be adjudged unless the case has been previously referred to trial as a noncapital case.*

\* \* \* \* \*

**SUBCHAPTER IX—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL**

\* \* \* \* \*

**§ 874. Art. 74. Remission and suspension**

(a) The Secretary concerned and, when designated by him, any Under Secretary, Assistant Secretary, Judge Advocate General, or commanding officer may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the President. However, in the case of a sentence of confinement for life without eligibility for parole *that is adjudged for an offense committed after October 29, 2000*, after the sentence is ordered executed, the authority of the Secretary concerned under the preceding sentence (1) may not be delegated, and (2) may be exercised only after the service of a period of confinement of not less than 20 years.

\* \* \* \* \*

**CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES**

\* \* \* \* \*

**§ 980. Limitation on use of humans as experimental subjects**

(a) Funds appropriated to the Department of Defense may not be used for research involving a human being as an experimental subject unless—

(1) \* \* \*

\* \* \* \* \*

*(b) The Secretary of Defense may waive the prohibition in this section with respect to a specific research project to advance the development of a medical product necessary to the armed forces if the research project is carried out in accordance with all other applicable laws.*

\* \* \* \* \*

**§ 986. Security clearances: limitations**

(a) PROHIBITION.—After [the date of the enactment of this section,] *October 30, 2000*, the Department of Defense may not grant or renew a security clearance for a person to whom this section applies who is described in subsection (c).

\* \* \* \* \*

**CHAPTER 50—MISCELLANEOUS COMMAND RESPONSIBILITIES**

\* \* \* \* \*

**§ 991. Management of deployments of members**

(a) \* \* \*

(b) DEPLOYMENT DEFINED.—(1) For the purposes of this section, a member of the armed forces shall be considered to be deployed or in a deployment on any day on which, pursuant to orders, the member is performing *active* service in a training exercise or operation at a location or under circumstances that make it impossible or infeasible for the member to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station or homeport, as the case may be. *For the purpose of applying the preceding sentence to a member of a reserve component performing active service, the housing in which the member resides when on garrison duty at the member's permanent duty station or homeport, as the case may be, shall be considered to be either the housing the member normally occupies when on garrison duty or the member's permanent civilian residence.*

[(2) In the case of a member of a reserve component performing active service, the member shall be considered deployed or in a deployment for the purposes of paragraph (1) on any day on which, pursuant to orders that do not establish a permanent change of station, the member is performing the active service at a location that—

[(A) is not the member's permanent training site; and

[(B) is—

[(i) at least 100 miles from the member's permanent residence; or

[(ii) a lesser distance from the member's permanent residence that, under the circumstances applicable to the member's travel, is a distance that requires at least three hours of travel to traverse.]

[(3)] (2) For the purposes of this section, a member is not deployed or in a deployment when the member is—

(A) \* \* \*

\* \* \* \* \*

[(4)] (3) The Secretary of Defense may prescribe a definition of deployment for the purposes of this section other than the definition specified [in paragraphs (1) and (2)] *in paragraph (1)*. Any such definition may not take effect until 90 days after the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the revised standard definition of deployment.

\* \* \* \* \*

**CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS**

\* \* \* \* \*

**§ 1044a. Authority to act as notary**

(a) \* \* \*

(b) Persons with the powers described in subsection (a) are the following:

(1) \* \* \*

(2) All civilian attorneys serving as [legal assistance officers] *legal assistance attorneys*.

\* \* \* \* \*

(4) All other members of the armed forces, including reserve members when not in a duty status, and, when outside the United States, all civilian employees of the Department of Defense, who are designated by regulations of the armed forces or the Department of Defense or by statute to have those powers.

\* \* \* \* \*

**§ 1056. Relocation assistance programs**

(a) \* \* \*

\* \* \* \* \*

(c) MILITARY RELOCATION ASSISTANCE PROGRAMS.—(1) \* \* \*

(2) The Secretary shall ensure that[, not later than September 30, 1991,] information available through each military relocation assistance program shall be managed through a computerized information system that can interact with all other military relocation assistance programs of the military departments, including programs located outside the continental United States.

\* \* \* \* \*

**CHAPTER 54—COMMISSARY AND EXCHANGE BENEFITS**

Sec.

1061. Survivors of certain Reserve and Guard members.

\* \* \* \* \*

[1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points.]

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

\* \* \* \* \*

**[§ 1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points**

[(a) ELIGIBILITY OF MEMBERS OF READY RESERVE.—A member of the Ready Reserve who satisfactorily completes 50 or more points creditable under section 12732(a)(2) of this title in a calendar year shall be eligible to use commissary stores of the Department of Defense. The Secretary concerned shall authorize the member to have 24 days of eligibility for any calendar year that the member qualifies for eligibility under this subsection.]

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

(a) ELIGIBILITY.—Subject to subsection (c), the Secretary concerned shall authorize members of the Ready Reserve described in subsection (b) to have 24 days of eligibility to use commissary stores of the Department of Defense for any calendar year.

(b) COVERED MEMBERS.—Subsection (a) applies with respect to the following members of the Ready Reserve:

(1) A member of the Selected Reserve who is satisfactorily participating in required training as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32 in that calendar year.

(2) A member of the Ready Reserve (other than a member described in paragraph (1)) who satisfactorily completes 50 or more points credible under section 12732(a)(2) of this title in that calendar year.

(c) *REDUCED NUMBER OF COMMISSARY VISITS FOR NEW MEMBERS.*—The number of commissary visits authorized for a member of the Selected Reserve described in subsection (b)(1) who enters the Selected Reserve after the beginning of the calendar year shall be equal to twice the number of full months remaining in the calendar year.

[(b)] (d) *EFFECT OF COMPENSATION OR TYPE OF DUTY.*—Subsection (a) shall apply without regard to whether, during the calendar year, the member receives compensation for the duty or training performed by the member or performs active duty for training.

[(c)] (e) *REGULATIONS.*—The Secretary concerned shall prescribe regulations, subject to the approval of the Secretary of Defense, to carry out this section.

\* \* \* \* \*

**CHAPTER 55—MEDICAL AND DENTAL CARE**

Sec.

1071. Purpose of this chapter.

\* \* \* \* \*

1074j. *Sub-acute care program.*

1074k. *Long-term care insurance.*

\* \* \* \* \*

**§ 1072. Definitions**

In this chapter:

(1) \* \* \*

\* \* \* \* \*

(7) The term “TRICARE program” means the managed health care program that is established by the Department of Defense under the authority of this chapter, principally section 1097 of this title, and includes [the competitive selection of contractors to financially underwrite] the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(8) The term “custodial care” means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—

(A) can be rendered safely and reasonably by a person who is not medically skilled; or

(B) is or are designed mainly to help the patient with the activities of daily living.

(9) The term “domiciliary care” means care provided to a patient in an institution or homelike environment because—

(A) providing support for the activities of daily living in the home is not available or is unsuitable; or

*(B) members of the patient's family are unwilling to provide the care.*

\* \* \* \* \*

**§ 1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days**

(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

(1) \* \* \*

\* \* \* \* \*

(3) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence].

\* \* \* \* \*

**§ 1074g. Pharmacy benefits program**

(a) PHARMACY BENEFITS.—(1) \* \* \*

\* \* \* \* \*

(8) In carrying out this subsection, the Secretary shall ensure that an eligible covered beneficiary may continue to receive coverage for any maintenance pharmaceutical that is not on the uniform formulary and that was prescribed for the beneficiary before [the date of the enactment of this section] *October 5, 1999*, and stabilized the medical condition of the beneficiary.

\* \* \* \* \*

**§ 1074i. Reimbursement for certain travel expenses**

In any case in which a covered beneficiary is referred by a primary care physician to a specialty care provider who provides services more than 100 miles from the location in which the primary care provider provides services to the covered beneficiary, the Secretary shall provide reimbursement for reasonable travel expenses for the covered beneficiary. *In any case in which reimbursement of travel expenses of a covered beneficiary who is a minor and dependent is required under this section, the Secretary also shall provide reimbursement for reasonable travel expenses of the parent or guardian of, or the family member responsible for, such covered beneficiary.*

**§ 1074j. Sub-acute care program**

(a) ESTABLISHMENT.—*The Secretary of Defense shall establish an effective, efficient, and integrated sub-acute care benefits program under this chapter (hereinafter referred to in this section as the "program"). Except as otherwise provided in this section, the types of health care authorized under the program shall be the same as*

those provided under section 1079 of this title. The Secretary, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this section.

(b) *BENEFITS.*—(1) The program shall include a uniform skilled nursing facility benefit that shall be provided in the manner and under the conditions described in section 1861(h) and (i) of the Social Security Act (42 U.S.C. 1395x(h) and (i)), except that the limitation on the number of days of coverage under section 1812(a) and (b) of such Act (42 U.S.C. 1395d(a) and (b)) shall not be applicable under the program. Skilled nursing facility care for each spell of illness shall continue to be provided for as long as medically necessary and appropriate.

(2) In this subsection:

(A) The term “skilled nursing facility” has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a)).

(B) The term “spell of illness” has the meaning given such term in section 1861(a) of such Act (42 U.S.C. 1395x(a)).

(3) The program shall include a comprehensive, intermittent home health care benefit that shall be provided in the manner and under the conditions described in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).

**§ 1074k. Long-term care insurance**

Provisions regarding long-term care insurance for members and certain former members of the uniformed services and their families are set forth in chapter 90 of title 5.

\* \* \* \* \*

**§ 1076. Medical and dental care for dependents: general rule**

(a)(1) \* \* \*

(2) A dependent referred to in paragraph (1) is a dependent of a member of a uniformed service described in one of the following subparagraphs:

(A) \* \* \*

\* \* \* \* \*

(C) A member who died from an injury, illness, or disease incurred or aggravated in the line of duty while the member remained overnight immediately before the commencement of inactive-duty training, or while the member remained overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training[, if the site was outside reasonable commuting distance from the member’s residence].

\* \* \* \* \*

**§ 1079. Contracts for medical care for spouses and children: plans**

(a) To assure that medical care is available for dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title, of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after



consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except as follows:

(1) \* \* \*

\* \* \* \* \*

[(17)(A) The Secretary of Defense may establish a program for the individual case management of a person covered by this section or section 1086 of this title who has extraordinary medical or psychological disorders and, under such a program, may waive benefit limitations contained in paragraphs (5) and (13) of this subsection or section 1077(b)(1) of this title and authorize the payment for comprehensive home health care services, supplies, and equipment if the Secretary determines that such a waiver is cost-effective and appropriate.

[(B) The total amount expended under subparagraph (A) for a fiscal year may not exceed \$100,000,000.]

\* \* \* \* \*

[(d) Under joint regulations to be prescribed by the administering Secretaries, in the case of a dependent, as described in subparagraph (A), (D), or (I) of section 1072(2) of this title, of a member of the uniformed services on active duty for a period of more than 30 days, who is moderately or severely mentally retarded or who has a serious physical handicap, the plans covered by subsection (a) shall, with respect to the retardation or handicap of such dependent, include the following:

[(1) Diagnosis.

[(2) Inpatient, outpatient, and home treatment.

[(3) Training, rehabilitation, and special education.

[(4) Institutional care in private nonprofit, public and State institutions and facilities and, when appropriate, transportation to and from such institutions and facilities.

[(e) Members shall be required to share in the cost of any benefits provided their dependents under subsection (d) as follows:

[(1) Except as provided in clause (3), members in the lowest enlisted pay grade shall be required to pay the first \$25 incurred each month and members in the highest commissioned pay grade shall similarly be required to pay \$250 per month. The amounts to be similarly paid by members in all other pay grades shall be determined under joint regulations to be prescribed by the administering Secretaries.

[(2) Except as provided in clause (4), the Government's share of the cost of any benefits provided in a particular case under subsection (d) shall not exceed \$1,000 per month.

[(3) Members shall also be required to pay each month that amount, if any, remaining after the Government's maximum share has been reached.

[(4) A member who has more than one dependent incurring expenses in a given month under a plan covered by subsection (d) shall not be required to pay an amount greater than he would be required to pay if he had but one such dependent.

[(f) To qualify for the benefits provided by subsection (d), members shall be required to use public facilities to the extent they are available and adequate as determined under joint regulations of the administering Secretaries.]

*(d)(1) The Secretary of Defense shall establish a program to provide extended benefits for eligible dependents, which may include the provision of comprehensive health care services, including case management services, to assist in the reduction of the disabling effects of a qualifying condition of an eligible dependent. Registration shall be required to receive the extended benefits.*

*(2) The Secretary of Defense, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this subsection.*

*(3) In this subsection:*

*(A) The term "eligible dependent" means a dependent of a member of the uniformed services on active duty for a period of more than 30 days, as described in subparagraph (A), (D), or (I) of section 1072(2) of this title, who has a qualifying condition.*

*(B) The term "qualifying condition" means the condition of a dependent who is moderately or severely mentally retarded, has a serious physical disability, or has an extraordinary physical or psychological condition.*

*(e) Extended benefits for eligible dependents under subsection (d) may include comprehensive health care services with respect to the qualifying condition of such a dependent, and include, to the extent such benefits are not provided under provisions of this chapter other than under this section, the following:*

*(1) Diagnosis.*

*(2) Inpatient, outpatient, and comprehensive home health care supplies and services.*

*(3) Training, rehabilitation, and special education.*

*(4) Institutional care in private nonprofit, public, and State institutions and facilities and, if appropriate, transportation to and from such institutions and facilities.*

*(5) Custodial care, notwithstanding the prohibition in section 1077(b)(1) of this title.*

*(6) Respite care for the primary caregiver of the eligible dependent.*

*(7) Such other services and supplies as determined appropriate by the Secretary, notwithstanding the limitations in subsection (a)(13).*

*(f) Members shall be required to share in the cost of any benefits provided to their dependents under subsection (d) as follows:*

*(1) Members in the lowest enlisted pay grade shall be required to pay the first \$25 incurred each month, and members in the highest commissioned pay grade shall be required to pay the first \$250 incurred each month. The amounts to be paid by members in all other pay grades shall be determined under regulations to be prescribed by the Secretary of Defense in consultation with the administering Secretaries.*

*(2) A member who has more than one dependent incurring expenses in a given month under a plan covered by subsection (d)*

*shall not be required to pay an amount greater than would be required if the member had only one such dependent.*

\* \* \* \* \*

(h)(1) \* \* \*

(2) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to provide for such exceptions to the payment limitations under paragraph (1) as the Secretary determines to be necessary to assure that covered beneficiaries retain adequate access to health care services. Such exceptions may include the payment of amounts higher than the amount allowed under paragraph (1) when enrollees in managed care programs obtain covered services from nonparticipating providers. To provide a suitable transition from the payment methodologies in effect before [the date of the enactment of this paragraph] *February 10, 1996*, to the methodology required by paragraph (1), the amount allowable for any service may not be reduced by more than 15 percent below the amount allowed for the same service during the immediately preceding 12-month period (or other period as established by the Secretary of Defense).

\* \* \* \* \*

**§ 1095c. TRICARE program: facilitation of processing of claims**

(a) \* \* \*

(b) REQUIREMENT TO PROVIDE START-UP TIME FOR CERTAIN CONTRACTORS.—(1) [The] *Except as provided in paragraph (3), the Secretary of Defense shall not require that a contractor described in paragraph (2) begin to provide managed care support pursuant to a contract to provide such support under the TRICARE program until at least nine months after the date of the award of the [contract. In such case the contractor may begin to provide managed care support pursuant to the contract as soon as practicable after the award of the] contract, but in no case later than one year after the date of such award.*

\* \* \* \* \*

(3) *The Secretary may reduce the nine-month start-up period required under paragraph (1) if—*

(A) *the Secretary—*

*(i) determines that a shorter period is sufficient to ensure effective implementation of all contract requirements; and*

*(ii) submits notification to the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to reduce the nine-month start-up period; and*

(B) *60 days have elapsed since the date of such notification.*

\* \* \* \* \*

**§ 1097a. TRICARE Prime: automatic enrollments; payment options**

(a) \* \* \*

\* \* \* \* \*

(e) NO COPAYMENT FOR IMMEDIATE FAMILY.—No copayment shall be charged a member for care provided under TRICARE Prime to a dependent of a member of the uniformed services described in subparagraph (A), (D), or (I) of section **[1072]** 1072(2) of this title.

\* \* \* \* \*

## CHAPTER 56—DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND

Sec.

**[1111.** Establishment and purpose of Fund; definitions.]

1111. *Establishment and purpose of Fund; definitions; authority to enter into agreements.*

\* \* \* \* \*

### **[§ 1111. Establishment and purpose of Fund; definitions]**

#### **§ 1111. *Establishment and purpose of Fund; definitions; authority to enter into agreements***

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Medicare-Eligible Retiree Health Care Fund (**[hereafter]** *hereinafter* in this chapter referred to as the “Fund”), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the Department of Defense under *designated* Department of Defense retiree health care programs for medicare-eligible beneficiaries.

**[**(b) *In this chapter:*

**[**(1) The term “Department of Defense retiree health care programs for medicare-eligible beneficiaries” means the provisions of this title or any other provision of law creating entitlement to health care for a medicare-eligible member or former member of the uniformed services entitled to retired or retainer pay, or a medicare-eligible dependent of a member or former member of the uniformed services entitled to retired or retainer pay.

**[**(2) The term “medicare-eligible” means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

**[**(3) The term “dependent” means a dependent (as such term is defined in section 1072 of this title) described in section 1076(b)(1) of this title.]

*(b) In this chapter:*

(1) *The term “Department of Defense retiree health care programs” means the provisions of this title or any other provision of law creating an entitlement to or eligibility for health care under a Department of Defense or uniformed services program for a member or former member of a participating uniformed service who is entitled to retired or retainer pay, and an eligible dependent under such program.*

(2) *The term “designated Department of Defense health care program” means a program described in paragraph (1) of this subsection that is designated under section 1113(c).*

(3) *The term “eligible dependent” means a dependent (as such term is defined in section 1072(2)) described in section*

1076(a)(2) (other than a dependent of a member on active duty), 1076(b), 1086(c)(2), or 1086(c)(3)).

(4) The term “medicare-eligible”, with respect to any person, means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(5) The term “participating uniformed service” means the Army, Navy, Air Force, and Marine Corps, and any other uniformed service that is covered by an agreement entered into under subsection (c).

(c) The Secretary of Defense may enter into an agreement with any other administering Secretary for participation in the Fund by a uniformed service under the jurisdiction of that Secretary. Any such agreement shall require that Secretary to make contributions to the Fund on behalf of the members of the uniformed service under the jurisdiction of that Secretary comparable to the contributions to the Fund made by the Secretary of Defense under section 1116.

**§ 1112. Assets of Fund**

There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) \* \* \*

\* \* \* \* \*  
(4) Amounts paid into the Fund pursuant to section 1111(c).

**§ 1113. Payments from the Fund**

[(a) There shall be paid from the Fund amounts payable for Department of Defense retiree health care programs for medicare-eligible beneficiaries.]

(a) There shall be paid from the Fund amounts payable for the costs of designated Department of Defense retiree health care programs for the benefit of members or former members of a participating uniformed service who are entitled to retired or retainer pay and are medicare-eligible, and eligible dependents described in section 1111(b)(3) who are medicare-eligible.

\* \* \* \* \*

(c) For purposes of payments from the Fund under subsection (a), the Secretary of Defense shall designate the program authorized by section 1086 of this title.

**§ 1114. Board of Actuaries**

(a)(1) There is established in the Department of Defense a Department of Defense Medicare-Eligible Retiree Health Care Board of Actuaries ([hereafter] hereinafter in this chapter referred to as the “Board”). The Board shall consist of three members who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

\* \* \* \* \*

**§ 1115. Determination of contributions to the Fund**

(a) The Board shall determine the amount that is the present value (as of October 1, 2002) of future benefits payable from the

Fund that are attributable to service in the *participating* uniformed services performed before October 1, 2002. That amount is the original unfunded liability of the Fund. The Board shall determine the period of time over which the original unfunded liability should be liquidated and shall determine an amortization schedule for the liquidation of such liability over that period. Contributions to the Fund for the liquidation of the original unfunded liability in accordance with such schedule shall be made as provided in section 1116(b) of this title.

(b)(1) The Secretary of Defense shall determine each year, in sufficient time for inclusion in budget requests for the following fiscal year, the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1116(a) of this title. That amount shall be the sum of the following:

(A) The product of—

(i) \* \* \*

(ii) the expected average force strength during that fiscal year for members of the uniformed services *under the jurisdiction of the Secretary of Defense* on active duty (other than active duty for training) and full-time National Guard duty (other than full-time National Guard duty for training only).

(B) The product of—

(i) \* \* \*

(ii) the expected average force strength during that fiscal year for members of the Ready Reserve of the uniformed services *under the jurisdiction of the Secretary of Defense* (other than members on full-time National Guard duty other than for training) who are not otherwise described in subparagraph (A)(ii).

\* \* \* \* \*

#### § 1116. Payments into the Fund

(a) The Secretary of Defense shall pay into the Fund at the end of each month as the Department of Defense contribution to the Fund for that month the amount that is the sum of the following:

(1) The product of—

(A) \* \* \*

(B) the total end strength for that month for members of the uniformed services *under the jurisdiction of the Secretary of Defense* on active duty (other than active duty for training) and full-time National Guard duty (other than full-time National Guard duty for training only).

(2) The product of—

(A) \* \* \*

(B) the total end strength for that month for members of the Ready Reserve of the uniformed services *under the jurisdiction of the Secretary of Defense* other than members on full-time National Guard duty (other than for training) who are not otherwise described in paragraph (1)(B). Amounts paid into the Fund under this subsection shall be paid from funds available for the Defense Health Program.

(b)(1) \* \* \*

(2) At the beginning of each fiscal year the Secretary of Defense shall determine the sum of the following:

(A) \* \* \*

\* \* \* \* \*

(D) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section **[111(c)(4)] 1115(c)(4)** of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial experience.

\* \* \* \* \*

## CHAPTER 57—DECORATIONS AND AWARDS

Sec.

1121. Legion of Merit: award.

\* \* \* \* \*

1134. Cold War service medal.

\* \* \* \* \*

### § 1134. Cold War service medal

(a) **MEDAL AUTHORIZED.**—*The Secretary concerned shall, upon application, issue the Cold War service medal to a person eligible to receive that medal. The Cold War service medal shall be of an appropriate design approved by the Secretary of Defense, with ribbons, lapel pins, and other appurtenances.*

(b) **ELIGIBILITY.**—(1) *A person is eligible to receive the Cold War service medal if the person—*

(A) *served on active duty during the Cold War;*

(B) *has not been released from active duty with a characterization of service less favorable than honorable and has not received a discharge less favorable than an honorable discharge; and*

(C) *except as provided under paragraph (3), meets the service requirements of paragraph (2).*

(2) *The service requirements of this paragraph are—*

(A) *in the case of a person who served on active duty during the Cold War as an enlisted member, that the person have completed that person's initial term of enlistment and after the end of that initial term of enlistment have reenlisted for an additional term of enlistment or have been appointed as an officer; and*

(B) *in the case of a person who served on active duty during the Cold War as an officer, that the person have completed that person's initial service obligation as an officer and have served in the armed forces after completing that initial service obligation.*

(3) *The Secretary concerned, under regulations prescribed under this section, may waive the service requirements of paragraph (2)—*

(A) *in the case of any person discharged or released from active duty for a disability incurred or aggravated in line of duty;*

(B) *in the case of any person discharged for hardship under section 1173 of this title; and*

(C) under any other circumstance for which the Secretary determines that such a waiver is warranted.

(c) ONE AWARD AUTHORIZED.—Not more than one Cold War service medal may be issued to any person.

(d) ISSUANCE TO REPRESENTATIVE OF DECEASED.—If a person who is eligible for the Cold War service medal dies before being issued that medal, the medal may, upon application, be issued to the person's representative, as designated by the Secretary concerned.

(e) REPLACEMENT.—Under regulations prescribed by the Secretary concerned, a Cold War service medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

(f) UNIFORM REGULATIONS.—The Secretary of Defense shall ensure that regulations prescribed by the Secretaries of the military departments under this section are uniform so far as is practicable.

(g) COLD WAR DEFINED.—In this section, the term "Cold War" means the period beginning on September 2, 1945, and ending at the end of December 26, 1991.

**CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED**

\* \* \* \* \*

**§ 1144. Employment assistance, job training assistance, and other transitional services: Department of Labor**

(a) IN GENERAL.—(1) \* \* \*

\* \* \* \* \*

(3) The Secretaries referred to in paragraph (1) shall enter into a detailed agreement to carry out this section. [The agreement shall be entered into no later than 60 days after the date of the enactment of this section.]

\* \* \* \* \*

[(e) FUNDING.—(1) There is authorized to be appropriated to the Department of Labor to carry out this section \$11,000,000 for fiscal year 1993 and \$8,000,000 for each of fiscal years 1994 and 1995.

[(2) There is authorized to be appropriated to the Department of Veterans Affairs to carry out this section \$6,500,000 for each of fiscal years 1993, 1994, and 1995.]

**§ 1145. Health benefits**

(a) TRANSITIONAL HEALTH CARE.—(1) For the applicable time period described in paragraph (2), a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002 (and the dependents of the member), shall be entitled to receive—

(A) \* \* \*

\* \* \* \* \*

(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE.—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as eligible to receive health care at a military medical facility, the Secretary



concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

\* \* \* \* \*

(e) COAST GUARD.—The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the period beginning on October 1, 1994, and ending on December 31, [2001] 2002. The Secretary of Transportation shall implement this section for the Coast Guard.

#### **§ 1146. Commissary and exchange benefits**

The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the period beginning on October 1, 1994, and ending on December 31, [2001] 2002.

#### **§ 1147. Use of military family housing**

(a) TRANSITION FOR INVOLUNTARILY SEPARATED MEMBERS.—(1) The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual's household) in military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

(2) The Secretary of Transportation may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the period beginning on October 1, 1994, and ending on December 31, [2001] 2002, to continue for not more than 180 days after the date of such separation to reside (along with others of the member's household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.

\* \* \* \* \*

#### **§ 1150. Affiliation with Guard and Reserve units: waiver of certain limitations**

(a) PREFERENCE FOR CERTAIN PERSONS.—A person who is separated from the armed forces during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, and who applies to become a member of a National Guard or Reserve unit within one year after the date of such separation shall be given

preference over other equally qualified applicants for existing or projected vacancies within the unit to which the member applies.

\* \* \* \* \*

**CHAPTER 59—SEPARATION**

\* \* \* \* \*

**§ 1174a. Special separation benefits programs**

(a) \* \* \*

\* \* \* \* \*

(h) **TERMINATION OF PROGRAM.**—(1) Except as provided in paragraph (2), the Secretary concerned may not conduct a program pursuant to this section after December 31, [2001] 2002.

\* \* \* \* \*

**§ 1175. Voluntary separation incentive**

(a) \* \* \*

\* \* \* \* \*

(d)(1) \* \* \*

\* \* \* \* \*

(3) After December 31, [2001] 2002, the Secretary may not approve a request.

\* \* \* \* \*

**CHAPTER 61—RETIREMENT OR SEPARATION FOR PHYSICAL DISABILITY**

\* \* \* \* \*

**§ 1204. Members on active duty for 30 days or less or on inactive-duty training: retirement**

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the Secretary may retire the member with retired pay computed under section 1401 of this title, if the Secretary also determines that—

(1) \* \* \*

(2) the disability—

(A) \* \* \*

(B) is a result of an injury, illness, or disease incurred or aggravated in line of duty after September 23, 1996—

(i) \* \* \*

\* \* \* \* \*

(iii) while remaining overnight, immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training[, if the site of the inactive-

duty training is outside reasonable commuting distance of the member's residence]; or

\* \* \* \* \*

**§ 1206. Members on active duty for 30 days or less or on inactive-duty training: separation**

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the member may be separated from his armed force, with severance pay computed under section 1212 of this title, if the Secretary also determines that—

(1) \* \* \*

(2) the disability is a result of an injury, illness, or disease incurred or aggravated in line of duty—

(A) \* \* \*

(B) while the member—

(i) \* \* \*

\* \* \* \* \*

(iii) remained overnight at or in the vicinity of that place immediately before so serving[, if the place is outside reasonable commuting distance from the member's residence];

\* \* \* \* \*

(5) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and, in the case of a disability incurred before [the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000,] *October 5, 1999*, was the proximate result of performing active duty or inactive-duty training or of traveling directly to or from the place at which such duty is performed.

\* \* \* \* \*

**§ 1212. Disability severance pay**

(a) Upon separation from his armed force under section 1203 or 1206 of this title, a member is entitled to disability severance pay computed by multiplying (1) his years of service, but not more than 12, computed under section 1208 of this title, by (2) the highest of the following amounts:

(A) \* \* \*

\* \* \* \* \*

(C) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination [for promotion].

(D) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the temporary grade or rank to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination **for promotion**, if his eligibility for promotion was required to be based on cumulative years of service or years in grade.

\* \* \* \* \*

**CHAPTER 69—RETIRED GRADE**

\* \* \* \* \*

**§ 1370. Commissioned officers: general rule; exceptions**

(a) **RULE FOR RETIREMENT IN HIGHEST GRADE HELD SATISFACTORILY.—(1)** \* \* \*

(2)(A) In order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander, a commissioned officer of the Army, Navy, Air Force, or Marine Corps must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years in the case of retirements effective during the period beginning on October 1, 1990, and ending on December 31, **2001** 2002.

\* \* \* \* \*

(d) **RESERVE OFFICERS.—(1)** \* \* \*

\* \* \* \* \*

(3)(A) \* \* \*

**[(B) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in grade and is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.]**

*(B) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in grade may be credited with satisfactory service in the grade in which serving at the time of transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade, if that person—*

*(i) is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service; or*

*(ii) is retired under chapter 1223 of this title because the person no longer meets the qualification for membership in the*

*Ready Reserve solely because of a physical disability, as determined, at a minimum, by a medical evaluation board.*

\* \* \* \* \*

(5) The Secretary of Defense may authorize the Secretary of a military department to reduce the 3-year period required by paragraph (3)(A) to a period not less than 2 years in the case of retirements effective during the period beginning on October 17, 1998, and ending on December 31, [2001] 2002. The number of reserve commissioned officers of an armed force in the same grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed the number equal to 2 percent of the strength authorized for that fiscal year for reserve commissioned officers of that armed force in an active status in that grade.

\* \* \* \* \*

**CHAPTER 71—COMPUTATION OF RETIRED PAY**

Sec.  
1401. Computation of retired pay.

\* \* \* \* \*

1414. *Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation; contingent authority.*

\* \* \* \* \*

**§ 1405. Years of service**

(a) \* \* \*

\* \* \* \* \*

(c) EXCLUSION OF TIME REQUIRED TO BE MADE UP OR EXCLUDED.—(1) Time required to be made up by an enlisted member of the Army or Air Force under section 972(a) of this title, or required to be made up by an enlisted member of the Navy, Marine Corps, or Coast Guard under that section with respect to a period of time after [the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995,] *October 5, 1994*, may not be counted in determining years of service under subsection (a).

\* \* \* \* \*

**§ 1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average**

(a) \* \* \*

\* \* \* \* \*

(f) EXCEPTION FOR ENLISTED MEMBERS REDUCED IN GRADE AND OFFICERS WHO DO NOT SERVE SATISFACTORILY IN HIGHEST GRADE HELD.—

(1) \* \* \*

(2) AFFECTED MEMBERS.—A member or former member referred to in paragraph (1) is a member or former member who by reason of conduct occurring after [the date of the enactment of this subsection—] *October 30, 2000*—

(A) \* \* \*

\* \* \* \* \*

**§ 1408. Payment of retired or retainer pay in compliance with court orders**

(a) \* \* \*

\* \* \* \* \*

(d) PAYMENTS BY SECRETARY CONCERNED TO (OR FOR BENEFIT OF) SPOUSE OR FORMER SPOUSE.—(1) \* \* \*

\* \* \* \* \*

(6) In the case of a court order for which effective service is made on the Secretary concerned on or after [the date of the enactment of this paragraph] *August 22, 1996*, and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.

\* \* \* \* \*

**§ 1413. Special compensation for certain severely disabled uniformed services retirees**

(a) AUTHORITY.—The Secretary concerned shall pay to each eligible disabled uniformed services retiree a monthly amount determined under subsection (b). *If the provisions of subsection (a) of section 1414 of this title become effective in accordance with subsection (f) of that section, payments under this section shall be terminated effective as of the month beginning on the effective date specified in subsection (e) of that section.*

\* \* \* \* \*

**§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation; contingent authority**

(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—*Subject to subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38, subject to the enactment of qualifying offsetting legislation as specified in subsection (f).*

(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—*The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member*

would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

(c) *EXCEPTION.*—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

(d) *DEFINITIONS.*—In this section:

(1) The term “retired pay” includes retainer pay, emergency officers' retirement pay, and naval pension.

(2) The term “veterans' disability compensation” has the meaning given the term “compensation” in section 101(12) of title 38.

(e) *EFFECTIVE DATE.*—If qualifying offsetting legislation (as defined in subsection (f)) is enacted, the provisions of subsection (a) shall take effect on—

(1) the first day of the first month beginning after the date of the enactment of such qualifying offsetting legislation; or

(2) the first day of the fiscal year that begins in the calendar year in which such legislation is enacted, if that date is later than the date specified in paragraph (1).

(f) *EFFECTIVENESS CONTINGENT ON ENACTMENT OF OFFSETTING LEGISLATION.*—(1) The provisions of subsection (a) shall be effective only if—

(A) the President, in the budget for any fiscal year, proposes the enactment of legislation that, if enacted, would be qualifying offsetting legislation; and

(B) after that budget is submitted to Congress, there is enacted qualifying offsetting legislation.

(2) For purposes of this subsection:

(A) The term “qualifying offsetting legislation” means legislation (other than an appropriations Act) that includes provisions that—

(i) offset fully the increased outlays to be made by reason of the provisions of subsection (a) for each of the first 10 fiscal years beginning after the date of the enactment of such legislation;

(ii) expressly state that they are enacted for the purpose of the offset described in clause (i); and

(iii) are included in full on the PayGo scorecard.

(B) The term “PayGo scorecard” means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)) with respect to the ten fiscal years following the date of the enactment of the legislation that is qualifying offsetting legislation for purposes of this section.

\* \* \* \* \*

## CHAPTER 75—DECEASED PERSONNEL

\* \* \* \* \*

SUBCHAPTER II—DEATH BENEFITS

\* \* \* \* \*

**§ 1481. Recovery, care, and disposition of remains: decedents covered**

(a) The Secretary concerned may provide for the recovery, care, and disposition of the remains of the following persons:

(1) \* \* \*

(2) A member of a reserve component of an armed force who dies while—

(A) \* \* \*

\* \* \* \* \*

(D) remaining overnight immediately before the commencement of inactive-duty training, or remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training[, if the site is outside reasonable commuting distance from the member's residence];

\* \* \* \* \*

**§ 1491. Funeral honors functions at funerals for veterans**

(a) \* \* \*

(b) COMPOSITION OF FUNERAL HONORS DETAILS.—(1) \* \* \*

\* \* \* \* \*

(3) *A member of the Army National Guard of the United States or the Air National Guard of the United States who serves as a member of a funeral honors detail while in a duty status authorized under State law shall be considered to be a member of the armed forces for the purposes of the first sentence of paragraph (2).*

\* \* \* \* \*

**CHAPTER 76—MISSING PERSONS**

\* \* \* \* \*

**§ 1506. Personnel files**

(a) \* \* \*

(b) CLASSIFIED INFORMATION.—(1) \* \* \*

(2)(A) If classified information withheld under this subsection refers to one or more unnamed missing persons, the Secretary shall ensure that notice of that withheld information, and notice of the date of the most recent review of the classification of that withheld information, is made reasonably accessible to the primary next of kin, members of the immediate family, and the previously designated person[.] of all missing persons from the conflict or period of war to which the classified information pertains.

(B) For purposes of subparagraph (A), information shall be considered to be made reasonably available if placed in a separate and distinct file that is available for review by persons specified in subparagraph (A) upon the request of any such person either to review



*the separate file or to review the personnel file of the missing person concerned.*

\* \* \* \* \*

**§ 1511. Return alive of person declared missing or dead**

(a) \* \* \*

(b) **EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.**—Subsection (a) shall not be interpreted to invalidate or otherwise affect the receipt by any person of a death gratuity or other payment from the United States on behalf of a person referred to in subsection (a) before [the date of the enactment of this chapter.] *February 10, 1996.*

\* \* \* \* \*

**CHAPTER 80—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES**

Sec.

1561. Complaints of sexual harassment: investigation by commanding officers.

\* \* \* \* \*

1566. *Voting assistance: compliance assessments and assistance.*

\* \* \* \* \*

**§ 1566. *Voting assistance: compliance assessments and assistance***

(a) **INSPECTOR GENERAL ASSESSMENTS.**—(1) *The Department of Defense Inspector General shall each calendar year conduct a random and unannounced assessment at a minimum of 15 Department of Defense installations of the compliance at those installations with—*

*(A) the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);*

*(B) Department of Defense regulations regarding that Act and the Federal Voting Assistance Program carried out under that Act; and*

*(C) other requirements of law regarding voting by members of the armed forces.*

(2) *Each assessment under paragraph (1) shall include a review of such compliance—*

*(A) within units to which are assigned, in the aggregate, not less than 20 percent of the personnel assigned to duty at that installation;*

*(B) within a representative survey of members of the armed forces assigned to that installation and their dependents; and*

*(C) within unit voting assistance officers to measure program effectiveness.*

(b) **REGULAR MILITARY DEPARTMENT ASSESSMENTS.**—*The Secretary of each military department shall include in the set of issues and programs to be reviewed during any management effectiveness review or inspection an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) and with Department of Defense regulations regarding the Federal Voting Assistance Program.*

(c) *VOTING ASSISTANCE OFFICERS.*—Voting assistance officers appointed or assigned under Department of Defense regulations regarding the Federal Voting Assistance Program shall be appointed or assigned with the expectation of serving in that capacity for a minimum of 30 months. A member of the armed forces assigned to such a position may not be assigned other duties that would not be considered part of the member's primary military duties, except when a unit commander determines that insufficient personnel are available to fulfill all additional duty requirements. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer.

(d) *DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.*—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to overseas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times.

(3) In this section, the term “general Federal election month” means November in an even-numbered year.

\* \* \* \* \*

## CHAPTER 81—CIVILIAN EMPLOYEES

\* \* \* \* \*

### § 1581. Foreign National Employees Separation Pay Account

(a) \* \* \*

(b) *DEPOSITS INTO ACCOUNT.*—[(1) The Secretary of the Treasury shall deposit into the account all amounts that were obligated by the Secretary of Defense before December 5, 1991, and that remain unexpended for separation pay for foreign nationals referred to in subsection (e).

[(2) The Secretary of Defense shall deposit] *The Secretary of Defense shall deposit* into the account from applicable appropriations all amounts obligated [on or after December 5, 1991,] for separation pay for foreign nationals referred to in subsection (e).

\* \* \* \* \*

### § 1588. Authority to accept certain voluntary services

(a) *AUTHORITY TO ACCEPT SERVICES.*—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

(1) \* \* \*

\* \* \* \* \*

(5) *Voluntary legal assistance services under section 1044 of this title.*

\* \* \* \* \*

(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) \* \* \*

\* \* \* \* \*

(E) *Section 1054 of this title (relating to defense of certain suits arising out of legal malpractice), in the case of persons providing voluntary legal assistance services under subsection (a)(5).*

\* \* \* \* \*

**CHAPTER 83—CIVILIAN DEFENSE INTELLIGENCE EMPLOYEES**

\* \* \* \* \*

**SUBCHAPTER I—DEFENSE-WIDE INTELLIGENCE PERSONNEL POLICY**

\* \* \* \* \*

**§ 1611. Postemployment assistance: certain terminated intelligence employees**

(a) \* \* \*

\* \* \* \* \*

(d) DURATION OF ASSISTANCE.—Assistance may not be provided under this section in the case of any individual after the end of the five-year period beginning on the date of the termination of the employment of the individual **[with]** in a defense intelligence position.

\* \* \* \* \*

**CHAPTER 87—DEFENSE ACQUISITION WORKFORCE**

\* \* \* \* \*

**SUBCHAPTER I—GENERAL AUTHORITIES AND RESPONSIBILITIES**

- Sec. 1701. Management policies.
- [1702. Under Secretary of Defense for Acquisition and Technology: authorities and responsibilities.]**
- 1702. *Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities.*

\* \* \* \* \*

**§ 1702. Under Secretary of Defense for Acquisition and Technology: authorities and responsibilities**

**§ 1702. *Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities***

Subject to the authority, direction, and control of the Secretary of Defense, the **§ 1702. Under Secretary of Defense for Acquisition and Technology** *Under Secretary of Defense for Acquisition, Technology, and Logistics* shall carry out all powers, functions, and duties of the Secretary of Defense with respect to the acquisition workforce in the Department of Defense. The Under Secretary shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented throughout the Department of Defense. The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.

**§ 1703. Director of Acquisition Education, Training, and Career Development**

The **§ 1703. Director of Acquisition Education, Training, and Career Development** *Under Secretary of Defense for Acquisition and Technology* shall appoint a Director of Acquisition Education, Training, and Career Development within the office of the Under Secretary to assist the Under Secretary in the performance of his duties under this chapter.

\* \* \* \* \*

**§ 1707. Personnel in the Office of the Secretary of Defense and in the Defense Agencies**

(a) **POLICIES.**—The Secretary of Defense, acting through the **§ 1707. Personnel in the Office of the Secretary of Defense and in the Defense Agencies** *Under Secretary of Defense for Acquisition, Technology, and Logistics*, shall establish and implement, in such manner as the Secretary considers appropriate, policies and procedures for the effective management, including accession, education, training, and career development, of persons serving in acquisition positions in the Office of the Secretary of Defense and the Defense Agencies. Such policies and procedures shall include (1) the establishment of one or more Acquisition Corps with respect to such persons, and (2) the establishment of an acquisition career program board (and any appropriate subordinate board structure) with respect to such persons. The Secretary shall ensure that, to the maximum extent practicable, such policies and procedures are as uniform as practicable with the policies established under this chapter for the military departments.

\* \* \* \* \*

SUBCHAPTER II—DEFENSE ACQUISITION POSITIONS

\* \* \* \* \*

### § 1722. Career development

(a) CAREER PATHS.—The Secretary of Defense, acting through the **Under Secretary of Defense for Acquisition and Technology** *Under Secretary of Defense for Acquisition, Technology, and Logistics*, shall ensure that appropriate career paths for civilian and military personnel who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the armed forces to the most senior acquisition positions. The Secretary shall make available published information on such career paths.

(b) LIMITATION ON PREFERENCE FOR MILITARY PERSONNEL.—(1)  
\* \* \*

(2)(A) \* \* \*

(B) Not later than December 15 of each year, the **Under Secretary of Defense for Acquisition and Technology** *Under Secretary of Defense for Acquisition, Technology, and Logistics* shall submit to the Secretary a report that lists each acquisition position that is restricted to members of the armed forces under such policy and the recommendation of the Under Secretary as to whether such position should remain so restricted.

\* \* \* \* \*  
**(e) MANAGEMENT OF WORKFORCE.**—The Secretary of Defense shall ensure that the acquisition workforce is managed such that, for each fiscal year from October 1, 1991, through September 30, 1996, there is a substantial increase in the proportion of civilians (as compared to armed forces personnel) serving in critical acquisition positions in general, in program manager positions, and in division head positions over the proportion of civilians (as compared to armed forces personnel) in such positions on October 1, 1990.]

### § 1724. Contracting positions: qualification requirements

**(a) CONTRACTING OFFICERS.**—The Secretary of Defense shall require that in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, a person must—

(a) *CONTRACTING OFFICERS.*—*The Secretary of Defense shall require that, in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, an employee of the Department of Defense or member of the armed forces (other than the Coast Guard) must, except as provided in subsections (c) and (d)—*

(1) have completed all **mandatory** contracting courses required for a contracting officer **at the grade level, or in the position within the grade of the General Schedule (in the case of an employee), that the person is serving in;** (A) *in the case of an employee, serving in the position within the grade of the General Schedule in which the employee is serving, and (B) in*

*the case of a member of the armed forces, in the member's grade;*

\* \* \* \* \*

(3)(A) have received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees, and (B) have completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; and

\* \* \* \* \*

**[(b) GS-1102 SERIES POSITIONS AND SIMILAR MILITARY POSITIONS.—**The Secretary of Defense shall require that a person meet the requirements set forth in paragraph (3) of subsection (a), but not the other requirements set forth in that subsection, in order to qualify to serve in a position in the Department of Defense in—

**[(1) the GS-1102 occupational series; or**

**[(2) a similar occupational specialty if the position is to be filled by a member of the armed forces.**

**[(c) EXCEPTION.—**The requirements imposed under subsection (a) or (b) shall not apply to a person for the purpose of qualifying to serve in a position in which the person is serving on September 30, 2000.

**[(d) WAIVER.—**The acquisition career program board of a military department may waive any or all of the requirements of subsections (a) and (b) with respect to an employee or member of that military department if the board certifies that the employee or member possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.]

*(b) GS-1102 SERIES POSITIONS AND SIMILAR MILITARY POSITIONS.—(1) The Secretary of Defense shall require that in order to qualify to serve in a position in the Department of Defense that is in the GS-1102 occupational series an employee or potential employee of the Department of Defense meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to serve in such a position an employee or potential employee meet any of the requirements of paragraphs (1) and (2) of that subsection.*

*(2) The Secretary of Defense shall require that in order for a member of the armed forces to be selected for an occupational specialty within the armed forces that (as determined by the Secretary) is similar to the GS-1102 occupational series a member of the armed forces meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to be selected for such an occupational specialty a member meet any of the requirements of paragraphs (1) and (2) of that subsection.*

(c) *EXCEPTIONS.*—The qualification requirements imposed by the Secretary of Defense pursuant to subsections (a) and (b) shall not apply to an employee of the Department of Defense or member of the armed forces who—

(1) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold on or before September 30, 2000;

(2) served, on or before September 30, 2000, in a position either as an employee in the GS-1102 series or as a member of the armed forces in similar occupational specialty;

(3) is in the contingency contracting force; or

(4) is described in subsection (e)(1)(B).

(d) *WAIVER.*—The acquisition career program board concerned may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the board certifies that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. Such document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

(e) *DEVELOPMENTAL OPPORTUNITIES.*—(1) The Secretary of Defense may—

(A) establish or continue one or more programs for the purpose of recruiting, selecting, appointing, educating, qualifying, and developing the careers of individuals to meet the requirements in subparagraphs (A) and (B) of subsection (a)(3);

(B) appoint individuals to developmental positions in those programs; and

(C) separate from the civil service after a three-year probationary period any individual appointed under this subsection who, as determined by the Secretary, fails to complete satisfactorily any program described in subparagraph (A).

(2) To qualify for any developmental program described in paragraph (1)(A), an individual shall have—

(A) been awarded a baccalaureate degree from an accredited institution of higher education authorized to grant baccalaureate degrees; or

(B) completed at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management.

(f) *CONTINGENCY CONTRACTING FORCE.*—The Secretary shall establish qualification requirements for the contingency contracting force consisting of members of the armed forces whose mission is to deploy in support of contingency operations and other operations of the Department of Defense, including—

(1) completion of at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education or similar educational institution in any of the disciplines of accounting, business, finance, law, contracts, pur-

*chasing, economics, industrial management, marketing, quantitative methods, or organization and management; or*

*(2) passage of an examination that demonstrates skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours or the equivalent of study in any of the disciplines described in paragraph (1).*

\* \* \* \* \*

SUBCHAPTER III—ACQUISITION CORPS

Sec.

1731. Acquisition Corps: in general.

\* \* \* \* \*

【1736. Applicability.】

\* \* \* \* \*

**§ 1732. Selection criteria and procedures**

(a) SELECTION CRITERIA AND PROCEDURES.—Selection for membership in an Acquisition Corps shall be made in accordance with criteria and procedures established by the Secretary of Defense. 【Such criteria and procedures shall be in effect on and after October 1, 1993.】

\* \* \* \* \*

(c) EXCEPTIONS.—(1) \* \* \*

(2) The requirements of subsections (b)(2)(A) and (b)(2)(B) shall not apply to any employee who is serving in an acquisition position on October 1, 1991, and who does not have 10 years of experience as described in paragraph (1) if the employee passes an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education from among the following disciplines: accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management. The Secretary of Defense shall submit examinations to be given to civilian employees under this paragraph to the Director of the Office of Personnel Management for approval. If the Director does not disapprove an examination within 30 days after the date on which the Director receives the examination, the examination is deemed to be approved by the Director.

\* \* \* \* \*

**§ 1734. Career development**

(a) \* \* \*

(b) ASSIGNMENT PERIOD FOR PROGRAM MANAGERS.—(1) The Secretary of Defense shall prescribe in regulations—

(A) \* \* \*

(B) a requirement that, 【on and after October 1, 1991,】 to the maximum extent practicable, a program manager who is the replacement for a reassigned program manager arrive at



the assignment location before the reassigned program manager leaves.

Except as provided in subsection (d), the Secretary concerned may not reassign a program manager or deputy program manager from such an assignment until after such major milestone has occurred.

\* \* \* \* \*

(e) ROTATION POLICY.—(1) \* \* \*

(2) The Secretary of Defense shall establish a procedure under which the assignment of each person assigned to a critical acquisition position shall be reviewed on a case-by-case basis, by the acquisition career program board of the department concerned, for the purpose of determining whether the Government and such person would be better served by a reassignment to a different position. Such a review shall be carried out with respect to each such person not later than five years after that person is assigned to a critical position. [Reviews under this subsection shall be carried out after October 1, 1995, but may be carried out before that date.]

\* \* \* \* \*

#### **§ 1735. Education, training, and experience requirements for critical acquisition positions**

(a) \* \* \*

\* \* \* \* \*

(c) PROGRAM EXECUTIVE OFFICERS.—Before being assigned to a position as a program executive officer, a person—

(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution in the private sector determined to be comparable by the Secretary of Defense, acting through the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics*;

\* \* \* \* \*

#### **§ 1736. Applicability**

[(a) IN GENERAL.—Except as provided in subsections (b) and (c), the qualification requirements prescribed pursuant to section 1735 shall apply to all critical acquisition positions not later than October 1, 1992.

[(b) PROGRAM MANAGERS.—The qualification requirements prescribed pursuant to section 1735 shall apply with respect to program manager positions not later than October 1, 1991.

[(c) EXCEPTIONS.—The qualification requirements prescribed pursuant to sections 1733(a) and 1735(a) shall not apply—

(1) to an employee who is serving in a critical acquisition position on October 1, 1992, for purposes of qualifying to continue to serve in such position; or

(2) to a person who is serving in a program manager position on October 1, 1991, for purposes of qualifying to continue to serve in such position.]

**§ 1737. Definitions and general provisions**

(a) \* \* \*

\* \* \* \* \*

(c) WAIVER.—(1) The Secretary of each military department (acting through the service acquisition executive for that department) or the Secretary of Defense (acting through the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics*) for Defense Agencies and other components of the Department of Defense may waive, on a case-by-case basis, the requirements established under this subchapter with respect to the assignment of an individual to a particular critical acquisition position. Such a waiver may be granted only if unusual circumstances justify the waiver or if the Secretary concerned (or official to whom the waiver authority is delegated) determines that the individual’s qualifications obviate the need for meeting the education, training, and experience requirements established under this subchapter.

(2) The authority to grant such waivers may be delegated—

(A) \* \* \*

(B) in the case of the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics*, only to the Director of Acquisition Education, Training, and Career Development.

\* \* \* \* \*

**SUBCHAPTER IV—EDUCATION AND TRAINING**

\* \* \* \* \*

**§ 1741. Policies and programs: establishment and implementation**

(a) \* \* \*

(b) FUNDING LEVELS.—The **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics* each year shall recommend to the Secretary of Defense the funding levels to be requested in the defense budget to implement the education and training programs under this subchapter. The Secretary of Defense shall set forth separately the funding levels requested for such programs in the Department of Defense budget justification documents submitted in support of the President’s budget submitted to Congress under section 1105 of title 31.

\* \* \* \* \*

**§ 1746. Defense acquisition university structure**

(a) DEFENSE ACQUISITION UNIVERSITY STRUCTURE.—The Secretary of Defense, acting through the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics*, shall establish and maintain a defense acquisition university structure to provide for—

(1) \* \* \*

\* \* \* \* \*

SUBCHAPTER V—GENERAL MANAGEMENT PROVISIONS

- Sec.  
 1761. Management information system.  
     \*           \*           \*           \*           \*           \*           \*  
 【1762. Report to Secretary of Defense.】  
     \*           \*           \*           \*           \*           \*           \*  
 【1764. Authority to establish different minimum experience requirements.】

**§ 1761. Management information system**

- (a) \* \* \*  
 (b) MINIMUM INFORMATION.—The management information system shall, at a minimum, provide for—

- (1) \* \* \*  
     \*           \*           \*           \*           \*           \*           \*

(4) collection of the information necessary for the 【Under Secretary of Defense for Acquisition and Technology】 *Under Secretary of Defense for Acquisition, Technology, and Logistics* and the Secretary of Defense to comply with the requirements of section 1762 for the years in which that section is in effect.

**【§ 1762. Report to Secretary of Defense**

【(a) REPORT OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.—Each year the Under Secretary of Defense for Acquisition and Technology shall transmit to the Secretary of Defense a report on the status of the defense acquisition workforce. Each annual report shall include, for each military department and Defense Agency and the Office of the Secretary of Defense, information on each category of information referred to in subsection (c).

【(b) INCLUSION OF INFORMATION IN ANNUAL REPORT.—The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title the information in the report transmitted to the Secretary under subsection (a).

【(c) INFORMATION.—The following information shall be included in the report transmitted to the Secretary under subsection (a) for the period covered by the report (which shall be shown for the Department of Defense as a whole and, with respect to paragraphs (1) through (12), separately for the Army, Navy, Air Force, Marine Corps, Defense Agencies, and Office of the Secretary of Defense):

【(1) The number of acquisition positions specified under the policy established under section 1722(b)(2) of this title as being available, as of December 1 of the period covered by the report, only to members of the armed forces, set forth separately under each criterion established in the policy, together with a discussion of the types of positions that are so specified.

【(2) The total number of persons serving in the Acquisition Corps as of December 1 of the period covered by the report, set forth separately for members of the armed forces and civilian employees, by grade level and by functional specialty.

【(3) The total number of critical acquisition positions held as of December 1 of the period covered by the report, set forth separately for members of the armed forces and civilian employees, by grade level and by other appropriate categories (including by program manager, deputy program manager, and

division head positions). For each such category, the report shall specify the number of civilians holding such positions compared to the total number of positions filled.

[(4)(A) The promotion rate for officers in an acquisition corps considered for promotion from within the promotion zone, compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade, shown for all officers of the same armed force and for all line (or the equivalent) officers of the same armed force.

[(B) The promotion rate for officers in an acquisition corps considered for promotion from below the promotion zone, compared in the same manner as specified in subparagraph (A).

[(C) If the promotion rates fail to meet the objective of section 1731(b) of this title, the Secretary of Defense shall notify Congress of such failures and of what actions the Secretary has taken or plans to take in reaction to such failures.

[(5) The number of employees who met the requirement of section 1724(a)(3) or section 1724(b) of this title by passing an exam as described in section 1724(a)(3)(C), set forth separately for contracting officers and persons in the GS-1102 occupational series.

[(6) The number of employees to whom the requirements of subsections (b)(2)(A) and (b)(2)(B) of section 1732 of this title did not apply because of the exceptions provided in paragraphs (1) and (2) of section 1732(c) of this title, set forth separately by type of exception.

[(7) The number of employees certified by an acquisition career program board under section 1732(b)(2)(A)(ii) of this title.

[(8) The number of program managers and deputy program managers who were reassigned after completion of a major milestone occurring closest in time to the date on which the person has served in the position for four years (as required under section 1734(b) of this title), and the proportion of those reassignments to the total number of reassignments of program managers and deputy program managers, set forth separately for program managers and deputy program managers. The Secretary also shall include the average length of assignment served by program managers and deputy program managers so reassigned.

[(9) The number of persons, excluding those reported under paragraph (8), in critical acquisition positions who were reassigned after a period of three years or longer (as required under section 1734(a) of this title), and the proportion of those reassignments to the total number of reassignments of persons, excluding those reported under paragraph (8), in critical acquisition positions.

[(10) The number of times a waiver authority was exercised under section 1724(d), 1732(d), 1734(d), or 1736(c) of this title or any other provision of this chapter (or other provision of law) which permits the waiver of any requirement relating to the acquisition workforce, and in the case of each such authority, the reasons for exercising the authority. The Secretary may present the information provided under this paragraph by category or grouping of types of waivers and reasons.

[(11) The number of persons reviewed for reassignment pursuant to section 1734(e)(2) of this title and the number of persons reassigned as a result of such reviews, together with a discussion of the criteria used to determine reassignments.

[(12) The number of persons participating in each of the programs described in sections 1742 through 1745 of this title, as of December 1 of the period covered by the report.

[(13) The number of persons paid a bonus under section 317 of title 37 and the number of years of service agreed to, for each such bonus, by category.

[(14) Such other information and comparative data as the Secretary of Defense considers appropriate to demonstrate the performance of the Department of Defense and the performance of each military department in carrying out this chapter.

[(d) EFFECTIVE DATE.—The requirements of this section shall apply to the years 1991 through 1998.]

### **§ 1763. Reassignment of authority**

The Secretary of Defense may assign the responsibilities under this chapter of the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* to any other civilian official in the Office of the Secretary of Defense who is appointed by the President by and with the advice and consent of the Senate. If the Secretary takes action under the preceding sentence, he may authorize the Secretaries of the military departments to assign the responsibilities of a senior acquisition executive under this chapter to any other civilian official in the military department who is appointed by the President by and with the advice and consent of the Senate.

### **§ 1764. Authority to establish different minimum experience requirements**

[(a) AUTHORITY.—During the six-year period beginning on October 1, 1992, and ending on September 30, 1998, the Secretary of Defense may prescribe a different minimum number of years of experience to be required for eligibility for appointment to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter. Any requirement prescribed under this section for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.

[(b) APPLICABILITY.—This section applies to the following acquisition positions in the Department of Defense:

[(1) Contracting officer.

[(2) Program executive officer.

[(3) Senior contracting official.

[(c) OPM APPROVAL.—The Secretary of Defense shall submit any requirement with respect to civilian employees that is prescribed under this section to the Director of the Office of Personnel Management for approval if the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

[(d) REPORT.—The Secretary of Defense shall notify Congress of each requirement prescribed under subsection (a) together with his reasons for prescribing such requirement.]

\* \* \* \* \*

**CHAPTER 88—MILITARY FAMILY PROGRAMS AND  
MILITARY CHILD CARE**

\* \* \* \* \*

**SUBCHAPTER I—MILITARY FAMILY PROGRAMS**

\* \* \* \* \*

**§ 1782. Surveys of military families**

[(a) AUTHORITY.—The Secretary of Defense may conduct surveys of members of the armed forces on active duty or in an active status, members of the families of such members, and retired members of the armed forces to determine the effectiveness of Federal programs relating to military families and the need for new programs.]

(a) *AUTHORITY.—The Secretary of Defense, in order to determine the effectiveness of Federal programs relating to military families and the need for new programs, may conduct surveys of—*

- (1) *members of the armed forces who are on active duty, in an active status, or retired;*
- (2) *family members of such members; and*
- (3) *survivors of retired members.*

\* \* \* \* \*

(c) **FEDERAL RECORDKEEPING REQUIREMENTS.**—With respect to such surveys, [family members of members of the armed forces and reserve and retired members of the armed forces] *persons covered by subsection (a)* shall be considered to be employees of the United States for purposes of section 3502(3)(A)(i) of title 44.

\* \* \* \* \*

**§ 1784. Employment opportunities for military spouses**

(a) \* \* \*

\* \* \* \* \*

(d) **SPACE-AVAILABLE USE OF FACILITIES FOR SPOUSE TRAINING PURPOSES.**—*Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may make available to a non-Department of Defense entity space in non-excess facilities controlled by that Secretary for the purpose of the non-Department of Defense entity providing employment-related training for military spouses.*

(e) **EMPLOYMENT BY OTHER FEDERAL AGENCIES.**—*The Secretary of Defense shall work with the Director of the Office of Personnel Management and the heads of other Federal departments and agencies to expand and facilitate the use of existing Federal programs and resources in support of military spouse employment.*

(f) **PRIVATE-SECTOR EMPLOYMENT.**—*The Secretary of Defense—*

(1) shall seek to develop partnerships with firms in the private sector to enhance employment opportunities for spouses of members of the armed forces and to provide for improved job portability for such spouses, especially in the case of the spouse of a member of the armed forces accompanying the member to a new geographical area because of a change of permanent duty station of the member; and

(2) shall work with the United States Chamber of Commerce and other appropriate private-sector entities to facilitate the formation of such partnerships.

(g) *EMPLOYMENT WITH DOD CONTRACTORS.*—The Secretary of Defense shall examine and seek ways for incorporating hiring preferences for qualified spouses of members of the armed forces into contracts between the Department of Defense and private-sector entities.

\* \* \* \* \*

### PART III—TRAINING AND EDUCATION

\* \* \* \* \*

#### CHAPTER 102—JUNIOR RESERVE OFFICERS' TRAINING CORPS

Sec.  
2031. Junior Reserve Officers' Training Corps.

\* \* \* \* \*

[2033. Contingent funding increase.]

##### § 2031. Junior Reserve Officers' Training Corps

(a)(1) The Secretary of each military department shall establish and maintain a Junior Reserve Officers' Training Corps, organized into units, at public and private secondary educational institutions which apply for a unit and meet the standards and criteria prescribed pursuant to this section. [The total number of units which may be established and maintained by all of the military departments under authority of this section, including those units already established on October 13, 1964, may not exceed 3,500.] The President shall promulgate regulations prescribing the standards and criteria to be followed by the military departments in selecting the institutions at which units are to be established and maintained and shall provide for the fair and equitable distribution of such units throughout the Nation, except that more than one such unit may be established and maintained at any military institute.

\* \* \* \* \*

##### [§ 2033. Contingent funding increase

[If for any fiscal year the amount appropriated directly to the Secretary of Defense for the National Guard Challenge Program under section 509 of title 32 is in excess of \$62,500,000, the Secretary of Defense shall (notwithstanding any other provision of law) make the amount in excess of \$62,500,000 available for the Junior Reserve Officers' Training Corps program under section

2031 of this title, and such excess amount may not be used for any other purpose.】

### CHAPTER 103—SENIOR RESERVE OFFICERS' TRAINING CORPS

\* \* \* \* \*

#### § 2104. Advanced training; eligibility for

(a) \* \* \*

(b) To be eligible for continuation, or initial enrollment, in the program for advanced training, a person must—

(1) \* \* \*

\* \* \* \* \*

(3) enlist in [a reserve component of] an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary;

\* \* \* \* \*

#### § 2106. Advanced training; commission on completion

(a) Upon satisfactorily completing the academic and military requirements of the program of advanced training, a member of the program who was selected for advanced training under section 2104 of this title may be appointed as a regular or reserve officer in the appropriate armed force in the grade of second lieutenant or ensign, even though he is under 21 years of age. *However, a member of the program selected for an appointment under this section who, under regulations prescribed by the Secretary of the military department concerned, is designated or selected as a Distinguished Graduate (or the equivalent) shall be appointed as a regular officer.*

\* \* \* \* \*

#### § 2107. Financial assistance program for specially selected members

(a) The Secretary of the military department concerned may appoint as a cadet or midshipman, as appropriate, in the reserve of an armed force under his jurisdiction any eligible member of the program who will be under [27 years of age on June 30] *35 years of age on December 31* of the calendar year in which he is eligible under this section for appointment as an ensign in the Navy or as a second lieutenant in the Army, Air Force, or Marine Corps, as the case may be[, except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 30 years of age on such date].

\* \* \* \* \*

#### § 2107a. Financial assistance program for specially selected members: Army Reserve and Army National Guard

(a)(1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is enrolled in the Advanced



Course of the Army Reserve Officers' Training Corps at a military college, military junior college, or civilian institution and who will be under **【27 years of age on June 30】** *35 years of age on December 31* of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army Reserve or Army National Guard**【**, except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 30 years of age on such date**】**.

\* \* \* \* \*

(b)(1) To be eligible for appointment as a cadet under this section, a member of the program must—

**【(1)】** (A) be a citizen of the United States;

**【(2)】** (B) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

**【(3)】** (C) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

**【(4)】** (D) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

**【(5)】** (E) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

**【(6)】** (F) agree in writing that he will serve in a troop program unit of the Army Reserve or Army National Guard for not less than eight years.

(2) Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

(3) *In the case of a cadet under this section at a military junior college, the Secretary may, at any time and with the consent of the cadet concerned, modify an agreement described in paragraph (1)(F) submitted by the cadet to reduce or eliminate the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation. Such a modification may be made only if the Secretary determines that it is in the best interests of the United States to do so.*

\* \* \* \* \*

(h) The Secretary of the Army shall appoint not more than 208 cadets each year under this section, to include not less than 10 cadets at each military junior college at which there are not less than 10 members of the program eligible under subsection (b) for such an appointment. At any **【military college】** *military junior college* at which in any year there are fewer than 10 such members, the Secretary shall appoint each such member as a cadet under this section.

\* \* \* \* \*

**CHAPTER 104—UNIFORMED SERVICES UNIVERSITY OF  
THE HEALTH SCIENCES**

\* \* \* \* \*

**§ 2112. Establishment**

(a) There is hereby authorized to be established within 25 miles of the District of Columbia a Uniformed Services University of the Health Sciences (hereinafter in this chapter referred to as the “University”), at a site or sites to be selected by the Secretary of Defense, with authority to grant appropriate advanced degrees. It shall be so organized as to graduate not less than 100 medical students annually, with the first class graduating not later than September 21, 1982].

\* \* \* \* \*

**CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS  
FINANCIAL ASSISTANCE PROGRAMS**

\* \* \* \* \*

**SUBCHAPTER II—NURSE OFFICER CANDIDATE ACCESSION  
PROGRAM**

\* \* \* \* \*

**§ 2130a. Financial assistance: nurse officer candidates**

(a) BONUS AUTHORIZED.—(1) A person described in subsection (b) who, during the period beginning on November 29, 1989, and ending on December 31, [2001] 2002, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than \$5,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed \$2,500.

(2) In addition to the accession bonus payable under paragraph (1), a person selected under such paragraph shall be entitled to a monthly stipend of not more than \$500 for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution [that does not have a Senior Reserve Officers’ Training Program established under section 2102 of this title]. The continuation bonus may be paid for not more than 24 months.

(b) ELIGIBLE STUDENTS.—A person eligible to enter into an agreement under subsection (a) is a person who—

(1) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers’ Training Program established under section 2102 of this title *or that has a Senior Reserve Officers’ Training Program for which the student is ineligible;*

\* \* \* \* \*

**CHAPTER 108—DEPARTMENT OF DEFENSE SCHOOLS**

Sec.

2161. Joint Military Intelligence College: academic degrees.

\* \* \* \* \*

2167. *National Defense University: admission of private sector civilians to professional military education program.*

2168. *Defense Language Institute Foreign Language Center: degree of Associate of Arts in foreign language.*

\* \* \* \* \*

**§ 2162. Preparation of budget requests for operation of professional military education schools**

(a) \* \* \*

(b) PREPARATION OF BUDGET REQUESTS.—(1) \* \* \*

(2) *As executive agent for funding professional development education at the National Defense University, including the Joint Forces Staff College, the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall prepare the annual budget for professional development education operations at the National Defense University and set forth that request as a separate budget request in the materials submitted to Congress in support of the budget request for the Department of Defense. Nothing in the preceding sentence affects policies in effect on the date of the enactment of this paragraph with respect to budgeting for the funding of logistical and base operations support for components of the National Defense University through the military departments.*

[(2)] (3) The Secretary of a military department preparing a budget request for a professional military education school shall carefully consider the views of the Chairman of the Joint Chiefs of Staff, particularly with respect to the amount of the request for the operation of the schools of the National Defense University and the joint professional military education curricula of the other professional military education schools.

\* \* \* \* \*

**§ 2165. National Defense University: component institutions**

(a) \* \* \*

\* \* \* \* \*

(d) *SOURCE OF FUNDS FOR PROFESSIONAL DEVELOPMENT EDUCATION OPERATIONS.—Funding for the professional development education operations of the National Defense University shall be provided from funds made available to the Secretary of Defense from the annual appropriation “Operation and Maintenance, Defense-wide”.*

**§ 2166. Western Hemisphere Institute for Security Cooperation**

(a) \* \* \*

\* \* \* \* \*

(e) BOARD OF VISITORS.—(1) \* \* \*

\* \* \* \* \*

(9) The Federal Advisory Committee Act (5 U.S.C. App. [2]), other than section 14 (relating to termination after two years), shall apply to the Board.

\* \* \* \* \*

**§2167. National Defense University: admission of private sector civilians to professional military education program**

(a) *AUTHORITY FOR ADMISSION.*—The Secretary of Defense may permit eligible private sector employees who work in organizations relevant to national security to receive instruction at the National Defense University in accordance with this section. No more than 10 full-time equivalent private sector employees may be enrolled at any one time. Upon successful completion of the course of instruction in which enrolled, any such private sector employee may be awarded an appropriate diploma or degree under section 2165 of this title.

(b) *ELIGIBLE PRIVATE SECTOR EMPLOYEES.*—For purposes of this section, an eligible private sector employee is an individual employed by a private firm that is engaged in providing to the Department of Defense or other Government departments or agencies significant and substantial defense-related systems, products, or services or whose work product is relevant to national security policy or strategy. A private sector employee admitted for instruction at the National Defense University remains eligible for such instruction only so long as that person remains employed by the same firm.

(c) *ANNUAL CERTIFICATION BY SECRETARY OF DEFENSE.*—Private sector employees may receive instruction at the National Defense University during any academic year only if, before the start of that academic year, the Secretary of Defense determines, and certifies to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, that providing instruction to private sector employees under this section during that year will further national security interests of the United States.

(d) *PROGRAM REQUIREMENTS.*—The Secretary of Defense shall ensure that—

(1) the curriculum for the professional military education program in which private sector employees may be enrolled under this section is not readily available through other schools and concentrates on national security relevant issues; and

(2) the course offerings at the National Defense University continue to be determined solely by the needs of the Department of Defense.

(e) *TUITION.*—The President of the National Defense University shall charge students enrolled under this section a rate—

(1) that is at least the rate charged for employees of the United States outside the Department of Defense, less infrastructure costs, and

(2) that considers the value to the school and course of the private sector student.

(f) *STANDARDS OF CONDUCT.*—While receiving instruction at the National Defense University, students enrolled under this section, to the extent practicable, are subject to the same regulations governing

academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the university.

(g) *USE OF FUNDS.*—Amounts received by the National Defense University for instruction of students enrolled under this section shall be retained by the university to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the university.

**§ 2168. Defense Language Institute Foreign Language Center: degree of Associate of Arts in foreign language**

(a) Subject to subsection (b), the Commandant of the Defense Language Institute may confer an Associate of Arts degree in a foreign language upon any graduate of the Foreign Language Center of the Institute who fulfills the requirements for that degree.

(b) A degree may be conferred upon a student under this section only if the Provost of the Center certifies to the Commandant that the student has satisfied all the requirements prescribed for the degree.

(c) The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.

\* \* \* \* \*

**PART IV—SERVICE, SUPPLY, AND PROCUREMENT**

Chap.	Sec.
131. Planning and Coordination .....	2201
* * * * *	
135. Space Programs .....	2271
* * * * *	

**CHAPTER 131—PLANNING AND COORDINATION**

\* \* \* \* \*

**§ 2218. National Defense Sealift Fund**

(a) \* \* \*

\* \* \* \* \*

(d) *DEPOSITS.*—There shall be deposited in the Fund the following:

(1) All funds appropriated to the Department of Defense [for fiscal years after fiscal year 1993] for—

(A) \* \* \*

\* \* \* \* \*

**CHAPTER 135—SPACE PROGRAMS**

Sec.  
2271. Executive agent.

**§ 2271. Executive agent**

(a) *SECRETARY OF THE AIR FORCE.*—The Secretary of the Air Force may be designated as the executive agent of the Department of Defense—

(1) for the planning of the acquisition programs, projects, and activities of the Department that relate to space; and

(2) for the execution of those programs, projects, and activities.

(b) *ACQUISITION EXECUTIVE.*—The Secretary may designate the Under Secretary of the Air Force as the acquisition executive of the Air Force for the programs, projects, and activities referred to in subsection (a).

**CHAPTER 137—PROCUREMENT GENERALLY**

\* \* \* \* \*

**§ 2302c. Implementation of electronic commerce capability**

(a) *IMPLEMENTATION OF ELECTRONIC COMMERCE CAPABILITY.*—(1)  
\* \* \*

(2) The Secretary of Defense shall act through the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics* to implement the capability within the Department of Defense.

\* \* \* \* \*

**§ 2304. Contracts: competition requirements**

(a) \* \* \*

\* \* \* \* \*

(f)(1) Except as provided in paragraph (2), the head of an agency may not award a contract using procedures other than competitive procedures unless—

(A) \* \* \*

(B) the justification is approved—

(i) \* \* \*

\* \* \* \* \*

(iii) in the case of a contract for an amount exceeding \$50,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation) or in the case of the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics*, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(B); and

\* \* \* \* \*

(6)(A) \* \* \*

(B) The authority of the **【Under Secretary of Defense for Acquisition and Technology】** *Under Secretary of Defense for Acquisition, Technology, and Logistics* under paragraph (1)(B)(iii) may be delegated only to—

(i) \* \* \*

\* \* \* \* \*

**§ 2311. Assignment and delegation of procurement functions and responsibilities**

(a) \* \* \*

\* \* \* \* \*

(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

(2) The regulations shall include the following provisions:

(A) \* \* \*

(B) A provision that authorizes the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.

\* \* \* \* \*

**§ 2323. Contract goal for small disadvantaged businesses and certain institutions of higher education**

(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each fiscal year for the total combined amount obligated for contracts and subcontracts entered into with—

(A) \* \* \*

\* \* \* \* \*

(C) minority institutions (as defined in section [1046(3)] 365(3) of the Higher Education Act of 1965 ([20 U.S.C. 1135d-5(3)] *20 U.S.C. 1067k*)), which, for the purposes of this section, shall include Hispanic-serving institutions (as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1))).

\* \* \* \* \*

**CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES**

\* \* \* \* \*

**SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS**

\* \* \* \* \*

**§ 2350a. Cooperative research and development projects: allied countries**

(a) \* \* \*

(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) \* \* \*

(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics*.

\* \* \* \* \*

(e) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* shall prepare an arms cooperation opportunities document with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board.

\* \* \* \* \*

(2) An arms cooperation opportunities document referred to in paragraph (1) shall include the following:

(A) \* \* \*

(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more major allies of the United States or NATO organizations, an assessment by the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

\* \* \* \* \*

(f) REPORTS TO CONGRESS.—(1) Not later than March 1 of each year, the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* shall submit to the Speaker of the House of Representatives and the Committees on Armed Services and Appropriations of the Senate a report on cooperative research and development projects under this section. Each such report shall include—

(A) \* \* \*

\* \* \* \* \*

**CHAPTER 139—RESEARCH AND DEVELOPMENT**

\* \* \* \* \*



**§ 2366. Major systems and munitions programs: survivability and lethality testing required before full-scale production**

(a) \* \* \*

\* \* \* \* \*

(c) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary, before the system or program enters [engineering and manufacturing development] *system development and demonstration*, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data. Such alternative testing may not be carried out in the case of any covered system (or covered product improvement program for a covered system) unless the Secretary certifies to Congress, before the system or program enters [engineering and manufacturing development] *system development and demonstration*, that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.

\* \* \* \* \*

**CHAPTER 140—PROCUREMENT OF COMMERCIAL ITEMS**

\* \* \* \* \*

**§ 2375. Relationship of commercial item provisions to other provisions of law**

(a) \* \* \*

(b) LIST OF LAWS INAPPLICABLE TO CONTRACTS FOR THE ACQUISITION OF COMMERCIAL ITEMS.—No contract for the procurement of a commercial item entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation (pursuant to section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)).

\* \* \* \* \*

**§ 2376. Definitions**

In this chapter:

(1) The terms “commercial item”, “nondevelopmental item”, “component”, and “commercial component” have the meanings provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

\* \* \* \* \*

**CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS**

- Sec.  
 2381. Contracts: regulations for bids.  
 2382. *Contracts for services to be performed outside the United States.*

\* \* \* \* \*

**§2382. *Contracts for services to be performed outside the United States***

*The Secretary of Defense may enter into contracts to employ individuals or organizations to perform services in countries other than the United States without regard to laws regarding the negotiation, making, and performance of contracts and performance of work in the United States. Individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management, but the Secretary may determine the applicability to such individuals of any other law administered by the Secretary concerning the employment of such individuals in countries other than the United States.*

\* \* \* \* \*

**§ 2399. Operational test and evaluation of defense acquisition programs**

- (a) \* \* \*  
 (b) OPERATIONAL TEST AND EVALUATION.—(1) \* \* \*

\* \* \* \* \*

(3) The Director shall submit each report under paragraph (2) to the Secretary of Defense, the **Under Secretary of Defense for Acquisition and Technology** *Under Secretary of Defense for Acquisition, Technology, and Logistics*, and the congressional defense committees. Each such report shall be submitted to those committees in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary and Under Secretary and shall be accompanied by such comments as the Secretary may wish to make on the report.

\* \* \* \* \*

**§ 2400. Low-rate initial production of new systems**

(a) DETERMINATION OF QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.—(1) In the course of the development of a major system, the determination of what quantity of articles of that system should be procured for low-rate initial production (including the quantity to be procured for preproduction verification articles) shall be made—

- (A) when the milestone **II** *B* decision with respect to that system is made; and

\* \* \* \* \*

(2) In this section, the term “milestone **II** *B* decision” means the decision to approve the **engineering and manufacturing development** *system development and demonstration* of a major system

by the official of the Department of Defense designated to have the authority to make that decision.

\* \* \* \* \*

(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone [II] B decision.

(5) The Secretary of Defense shall include a statement of the quantity determined under paragraph (1) in the first SAR submitted with respect to the program concerned after that quantity is determined. If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone [II] B decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity. For purposes of this paragraph, the term “SAR” means a Selected Acquisition Report submitted under section 2432 of this title.

\* \* \* \* \*

**§ 2410f. Debarment of persons convicted of fraudulent use of “Made in America” labels**

(a) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a “Made in America” inscription, or *another inscription with the same meaning*, to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting with the Department of Defense.

\* \* \* \* \*

**CHAPTER 144—MAJOR DEFENSE ACQUISITION PROGRAMS**

\* \* \* \* \*

**§ 2432. Selected Acquisition Reports**

- (a) \* \* \*
- (b)(1) \* \* \*

\* \* \* \* \*

(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

- (i) the program has not entered [engineering and manufacturing development] *system development and demonstration*;

\* \* \* \* \*

- (c)(1) \* \* \*

\* \* \* \* \*

(3) In addition to the material required by paragraphs (1) and (2), each Selected Acquisition Report for the first quarter of a fiscal year shall include the following:

(A) A full life-cycle cost analysis for each major defense acquisition program included in the report that is in the [engineering and manufacturing development] *system development and demonstration* stage or has completed that stage. The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.

\* \* \* \* \*

(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to [engineering and manufacturing development] *system development and demonstration* of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to [engineering and manufacturing development] *system development and demonstration* if the Secretary notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

\* \* \* \* \*

**§ 2434. Independent cost estimates; operational manpower requirements**

(a) REQUIREMENT FOR APPROVAL.—The Secretary of Defense may not approve the [engineering and manufacturing development] *system development and demonstration*, or the production and deployment, of a major defense acquisition program unless an independent estimate of the full life-cycle cost of the program and a manpower estimate for the program have been considered by the Secretary.

\* \* \* \* \*

**§ 2435. Baseline description**

(a) \* \* \*

(b) FUNDING LIMIT.—No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated after the program enters [engineering and manufacturing development] *system development and demonstration* without an approved baseline description unless such obligation is specifically approved by the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics*.

(c) SCHEDULE.—A baseline description for a major defense acquisition program shall be prepared under this section—

- (1) before the program enters [demonstration and validation] *system development and demonstration*;
- (2) before the program enters [engineering and manufacturing development] *production and deployment*; and
- (3) before the program enters [production and deployment] *full rate production*.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the following:

(1) \* \* \*

(2) The submission to the Secretary of the military department concerned and the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* by the program manager for a program for which there is an approved baseline description under this section of reports of deviations from the baseline of the cost, schedule, performance, supportability, or any other factor of the program.

\* \* \* \* \*

**CHAPTER 146—CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS**

Sec.

2460. Definition of depot-level maintenance and repair.

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

*2461. Commercial or industrial type functions: required studies and reports before conversion to, or initiation of, contractor or civilian employee performance.*

\* \* \* \* \*

*2461b. Use of private sector to perform commercial or industrial type function: contractor reporting requirements.*

\* \* \* \* \*

**[2468. Military installations: authority of base commanders over contracting for commercial activities.]**

\* \* \* \* \*

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

***§ 2461. Commercial or industrial type functions: required studies and reports before conversion to, or initiation of, contractor or civilian employee performance***

(a) REPORTING AND ANALYSIS REQUIREMENTS AS PRECONDITION TO [CHANGE IN PERFORMANCE.—] *CHANGE IN OR INITIATION OF PERFORMANCE.—(1)* A commercial or industrial type function of the Department of Defense that, as of October 1, 1980, was being performed by Department of Defense civilian employees may not be changed to performance by the private sector until the Secretary of Defense fully complies with the reporting and analysis requirements specified in subsections (b) and (c).

*(2) In the case of a commercial or industrial type function of the Department of Defense not previously performed by Department of Defense civilian employees or a contractor, the performance of the function by the private sector may not be initiated until—*

*(A) the Secretary of Defense conducts a cost comparison examination that employs the most efficient organization process described in Office of Management and Budget Circular A-76,*

and its supplemental handbook or any successor administrative regulation or policy; and

(B) a determination is made that performance of the function by the private sector would be less costly over the term of the contract than performance by Department of Defense civilian employees during that same period.

(3) This subsection does not apply to the following contracts:

(A) A contract between the Department of Defense and the private sector for work with a contract value of less than \$1,000,000 so long as the work was not divided, modified, or in any way changed for the purpose of avoiding the requirements of this section.

(B) A contract for special studies and analyses, construction services, architectural services, engineering services, medical services, scientific and technical services related to (but not in support of) research and development, and depot-level maintenance and repair services.

(4) The Secretary of Defense may waive the applicability of this section if—

(A) the written waiver is prepared by the Secretary of Defense, or the relevant Assistant Secretary or agency head; and

(B) the written waiver is accompanied by a detailed determination that—

(i) there is no reasonable expectation that civilian employees would win a public-private competition for the function; and

(ii) the issuance of a waiver would not serve to reduce significantly the level of or quality of competition in the future award or performance of work.

(5) The Secretary of Defense shall publish a copy of the waiver in the Federal Register.

(b) NOTIFICATION AND ELEMENTS OF ANALYSIS.—(1) \* \* \*

\* \* \* \* \*

(5)(A) A commercial or industrial type function of the Department of Defense may not be changed to performance by the private sector unless, as a result of the cost comparison examination required under paragraph (3)(A), that employed the most efficient organization process described in Office of Management and Budget Circular A-76 or any successor administrative regulation or policy, at least a 10-percent cost savings would be achieved by performance of the function by the private sector over the term of the contract.

(B) The cost savings requirement specified in subparagraph (A) does not apply to any contracts for special studies and analyses, construction services, architectural services, engineering services, medical services, scientific and technical services related to (but not in support of) research and development, and depot-level maintenance and repair services.

(C) The Secretary of Defense may waive the cost savings requirement if—

(i) the written waiver is prepared by the Secretary of Defense, or the relevant Assistant Secretary or agency head; and

(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to

*preclude compliance with the requirement for a cost comparison examination.*

*(D) The Secretary of Defense shall publish a copy of the waiver in the Federal Register.*

\* \* \* \* \*

[(d) WAIVER FOR SMALL FUNCTIONS.—Subsections (a) through (c) and subsection (g) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by 50 or fewer Department of Defense civilian employees.]

*(d) EQUITY IN PUBLIC-PRIVATE COMPETITION.—(1) For any fiscal year in which commercial or industrial type functions of the Department of Defense performed by Department of Defense civilian employees are studied for possible change to private sector performance, the Secretary of Defense shall subject approximately the same number of positions held by non-Federal employees under contracts with the Department of Defense to the same cost comparison examination described in subsection (b)(3), subject to the completion of the terms of those contracts.*

*(2) To the extent possible, the Secretary of Defense should, in complying with this subsection, select those contract positions held by non-Federal employees under contracts with the Department of Defense that are associated with commercial or industrial type functions that are, or have been, performed at least in part by Department of Defense civilian employees at any time on or after October 1, 1980.*

*(3) Notwithstanding any limitation on the number of Department of Defense civilian employees established by law, regulation, or policy, the Department of Defense may continue to employ, or may hire, such civilian employees as are necessary to perform functions acquired through the public-private competitions required by this subsection or any other provision of this section.*

\* \* \* \* \*

**§ 2461a. Development of system for monitoring cost savings resulting from workforce reductions**

(a) WORKFORCE REVIEW DEFINED.—In this section, the term “workforce review”, with respect to a function of the Department of Defense performed by Department of Defense civilian employees, means a review conducted under Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy), the Strategic Sourcing Program Plan of Action (or any successor Department of Defense guidance or directive), or any other authority to determine whether the function—

(1) \* \* \*

(2) should be reorganized or otherwise reengineered to improve the [efficiency] *efficiency* or effectiveness of the performance of the function, with a resulting decrease in the number of Department of Defense civilian employees performing the function.

(b) SYSTEM FOR MONITORING PERFORMANCE.—(1) The Secretary of Defense shall establish a system for monitoring the performance, including the cost of performance, of each function of the Depart-

ment of Defense that, after [the date of the enactment of this section,] *October 30, 2000*, is the subject of a workforce review.

\* \* \* \* \*

**§ 2461b. Use of private sector to perform commercial or industrial type function: contractor reporting requirements**

(a) *DEFINITIONS.—In this section:*

(1) *CONTRACTOR.—The term “contractor” includes a subcontractor.*

(2) *SECRETARY CONCERNED.—The term “Secretary concerned” includes the Secretary of Defense with respect to matters concerning the Defense Agencies.*

(b) *GENERAL REPORTING REQUIREMENT.—The Secretary concerned shall require each defense contractor to report to secure websites established and maintained by the Defense Agencies and military departments the same contractor direct and indirect manhour and cost information collected by the Department of the Army pursuant to part 668 of title 32, Code of Federal Regulations, as in effect on December 26, 2000, in terms of functions performed, appropriations funding the contract, and identification of the subordinate organizational elements within the Defense Agency or military department directly overseeing the contractor performance. The indirect information reported may comprise annualized rates for an entire company, which are not apportioned by specific contracts.*

(c) *ASSIGNMENT OF REPORTING RESPONSIBILITY.—The Defense Agency or military department containing the major organizational element receiving or reviewing the work performed by a defense contractor shall be responsible for collecting the data required by this section, even where all or part of the contracted work is funded by appropriations not controlled by the Secretary concerned. If the Defense Agency or military department containing the major organizational element receiving or reviewing the work performed by the contractor is different from the Defense Agency or military department containing the contracting activity, the Secretary concerned shall ensure that the contractor reports the required information to the Defense Agency or military department containing the major organizational element receiving or reviewing the work performed by the contractor.*

(d) *TIMING OF CONTRACTOR REPORTING TO ASSURE DATA QUALITY.—The Secretary concerned shall require contractors to report the information described in subsection (c) to the secure web-site contemporaneous with submission of a request for payment (for example, voucher, invoice, or request for progress payment) or not later than quarterly.*

(e) *CONTRACT REQUIREMENT EFFECTIVE DATE.—The Secretary concerned shall include the reporting requirement described in this section in each contract solicitation issued, contract awarded, and bilateral modification of an existing contract executed, by the Secretary concerned after October 1, 2001.*

(f) *CONTRACTOR SELF-EXEMPTION.—The Secretary concerned shall exempt a contractor from the data collection requirement imposed by this section if the contractor certifies in writing that the*



*contractor does not have an internal system for aggregating billable hours in the direct or indirect pools, or an internal payroll accounting system, and does not otherwise have to ever provide this information to the Government. A contractor may not claim an exemption on the sole basis that the contractor is a foreign contractor, that services are provided pursuant to a firm fixed price or time and materials contract or similar instrument, that the payroll system of the contractor is performed by another person, or that the contractor has too many subcontractors. The validity of this certification is the only requirement in this section subject to audit and verification by the Secretary concerned.*

(g) *REPORT TO CONGRESS AND COMPTROLLER GENERAL ACTIONS.—The Secretary concerned shall submit the information collected under subsection (c) to Congress not later than October 1 of each year for the prior fiscal year. Not later than April 1 of each year, the Comptroller General will review the information submitted for the prior fiscal year to assess compliance with this section and the effectiveness of Department of Defense initiatives to integrate this information into its budgeting process.*

(h) *PUBLICATION OF REPORTS.—After completion of the Comptroller General review under subsection (h), the Secretary concerned shall take steps to make the nonproprietary compilations of the data public on web sites, using the publication standard expressed by the Department of the Army in part 668 of title 32, Code of Federal Regulations.*

\* \* \* \* \*

**§ 2464. Core logistics capabilities**

(a) **NECESSITY FOR CORE LOGISTICS CAPABILITIES.—(1)** \* \* \*

\* \* \* \* \*

(3) The core logistics capabilities identified under paragraphs (1) and (2) shall include those capabilities that are necessary to maintain and repair the weapon systems and other military equipment (including mission-essential weapon systems or materiel not later than four years after achieving initial operational capability, but excluding systems and equipment under special access programs, **[nuclear aircraft carriers]** *nuclear refueling of aircraft carriers*, and commercial items described in paragraph (5)) that are identified by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as necessary to enable the armed forces to fulfill the strategic and contingency plans prepared by the Chairman of the Joint Chiefs of Staff under section 153(a) of this title.

\* \* \* \* \*

**§ 2467. Cost comparisons: inclusion of retirement costs; consultation with employees; waiver of comparison**

(a) **REQUIREMENT TO INCLUDE RETIREMENT COSTS.—(1)** \* \* \*

(2) The retirement system costs of the Department of Defense shall include (to the extent applicable) the following:

(A) The cost of the Federal Employees' Retirement System, valued by using the normal-cost percentage (as defined by section 8401(23) of title 5**[, United States Code]**).

(B) The cost of the Civil Service Retirement System under subchapter III of chapter 83 of [such] title 5.

(C) The cost of the thrift savings plan under subchapter III of chapter 84 of [such] title 5.

\* \* \* \* \*

(b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) \* \* \*

(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, [United States Code,] consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

\* \* \* \* \*

**§ 2468. Military installations: authority of base commanders over contracting for commercial activities**

[(a) AUTHORITY OF BASE COMMANDER.—The Secretary of Defense shall direct that the commander of each military installation shall have the authority and the responsibility to enter into contracts in accordance with this section for the performance of a commercial activity on the military installation.

[(b) YEARLY DUTIES OF BASE COMMANDER.—To enter into a contract under subsection (a) for a fiscal year, the commander of a military installation shall—

[(1) prepare an inventory for that fiscal year of commercial activities carried out by Government personnel on the military installation;

[(2) decide which commercial activities shall be reviewed under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy); and

[(3) conduct a solicitation for contracts for the performance of those commercial activities selected for conversion to contractor performance under the Circular A-76 process.

[(c) LIMITATIONS.—(1) The Secretary of Defense shall prescribe regulations under which the commander of each military installation may exercise the authority and responsibility provided under subsection (a).

[(2) The authority and responsibility provided under subsection (a) are subject to the authority, direction, and control of the Secretary.

[(d) ASSISTANCE TO DISPLACED EMPLOYEES.—If the commander of a military installation enters into a contract under subsection (a), the commander shall, to the maximum extent practicable, assist in finding suitable employment for any employee of the Department of Defense who is displaced because of that contract.

[(e) MILITARY INSTALLATION DEFINED.—In this section, the term “military installation” means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within the United States, the Commonwealth of Puerto Rico, or Guam.

[(f) TERMINATION OF AUTHORITY.—The authority provided to commanders of military installations by subsection (a) shall terminate on September 30, 1995.]

\* \* \* \* \*

**§ 2474. Centers of Industrial and Technical Excellence: designation; public-private partnerships**

(a) \* \* \*

\* \* \* \* \*

(e) AVAILABILITY OF EXCESS EQUIPMENT TO PRIVATE-SECTOR PARTNERS.—Equipment or facilities of a Center of Industrial and Technical Excellence may be made available for use by a private-sector entity under this section only if—

(1) \* \* \*

(2) the private-sector entity agrees—

(A) \* \* \*

(B) to hold harmless and indemnify the United States from—

(i) any claim for damages or injury to any person or property arising out of the use of the equipment or facilities, except [in a case of willful conduct or gross negligence] under the circumstances described in section 2563(c)(3) of this title; and

\* \* \* \* \*

(g) PILOT PROJECT FOR THE EXCLUSION OF CERTAIN EXPENDITURES FROM LIMITATION ON PRIVATE SECTOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.—

(1) AMOUNTS EXCLUDED.—Amounts expended out of funds described in paragraph (2) for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence named in paragraph (4) shall not be counted for the purposes of section 2466(a) of this title if the personnel are provided by private industry pursuant to a public-private partnership undertaken by the Center under subsection (b).

(2) FUNDS FOR FISCAL YEARS 2002 THROUGH 2006.—The funds referred to in paragraph (1) are funds available to the Air Force for depot-level maintenance and repair workloads for fiscal year 2002, 2003, 2004, 2005, or 2006, and shall not exceed 10 percent of the total funds available in any single year.

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

(4) COVERED CENTERS.—(A) The Centers of Industrial and Technical Excellence referred to in paragraph (1) are the following:

- (i) Oklahoma City Air Logistics Center, Oklahoma.
- (ii) Ogden Air Logistics Center, Utah.
- (iii) Warner-Robins Air Logistics Center, Georgia.

(B) The Secretary of the Air Force shall designate as a Center of Industrial and Technical Excellence under this section any of

*the air logistics centers named in subparagraph (A) that have not previously been so designated and shall specify the core competencies for which the designation is made.*

\* \* \* \* \*

**CHAPTER 148—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION**

\* \* \* \* \*

**SUBCHAPTER II—POLICIES AND PLANNING**

\* \* \* \* \*

**§ 2503. National defense program for analysis of the technology and industrial base**

(a) \* \* \*

(b) SUPERVISION OF PROGRAM.—The Secretary of Defense shall carry out the program through the [Under Secretary of Defense for Acquisition] *Under Secretary of Defense for Acquisition, Technology, and Logistics*. In carrying out the program, the Under Secretary shall consult with the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor.

\* \* \* \* \*

**SUBCHAPTER IV—MANUFACTURING TECHNOLOGY**

\* \* \* \* \*

**§ 2521. Manufacturing Technology Program**

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Manufacturing Technology Program to further the national security objectives of section 2501(a) of this title through the development and application of advanced manufacturing technologies and processes that will reduce the acquisition and supportability costs of defense weapon systems and reduce manufacturing and repair cycle times across the life cycles of such systems. The Secretary shall use the joint planning process of the directors of the Department of Defense laboratories in establishing the program. The [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics* shall administer the program.

\* \* \* \* \*

**SUBCHAPTER V—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS**

Sec.  
2531. Defense memoranda of understanding and related agreements.

\* \* \* \* \*

2533a. *Requirement to buy certain articles from American sources; exceptions.*

\* \* \* \* \*

**§2533a. Requirement to buy certain articles from American sources; exceptions**

(a) *REQUIREMENT.*—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Defense may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) *COVERED ITEMS.*—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, parachutes, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles);

or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) *EXCEPTION.*—The Secretary of Defense or the Secretary of the military department concerned may waive the requirement in subsection (a) if—

(1) such Secretary determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices;

(2) such Secretary has provided notice to the public regarding the waiver;

(3) such Secretary has notified the Committees on Appropriations, Armed Services, and Small Business of the House of Representatives and the Senate regarding the waiver and provided a justification to such committees for the waiver; and

(4) 30 days have elapsed since the date of the notification of such committees.

(d) *EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.*—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) *EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.*—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and  
 (2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title.

(f) **EXCEPTION FOR CERTAIN FOODS.**—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) **EXCEPTION FOR SMALL PURCHASES.**—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of this title.

(h) **APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.**—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) **GEOGRAPHIC COVERAGE.**—In this section, the term “United States” includes the commonwealths, territories, and possessions of the United States.

(j) **EXCEPTION FOR COMMISSARIES, EXCHANGES, AND OTHER NON-APPROPRIATED FUND INSTRUMENTALITIES.**—Subsection (a) does not apply to items purchased for resale purposes in commissaries, military exchanges, or nonappropriated fund instrumentalities operated by the military departments or the Department of Defense.

**§ 2534. Miscellaneous limitations on the procurement of goods other than United States goods**

(a) \* \* \*

\* \* \* \* \*

(i) **IMPLEMENTATION OF CERTAIN WAIVER AUTHORITY.**—(1) \* \* \*

\* \* \* \* \*

(3) The waiver authority described in paragraph (2) may not be delegated below the [Under Secretary of Defense for Acquisition and Technology] *Under Secretary of Defense for Acquisition, Technology, and Logistics.*

\* \* \* \* \*

**§ 2535. Defense Industrial Reserve**

(a) **DECLARATION OF PURPOSE AND POLICY.**—It is the [intent of Congress] *intent of Congress*—

(1) to provide a comprehensive and continuous program for the future safety and for the defense of the United States by providing adequate measures whereby an essential nucleus of Government-owned industrial plants and an industrial reserve

of machine tools and other industrial manufacturing equipment may be assured for immediate use to supply the needs of the **[Armed Forces]** *armed forces* in time of national emergency or in anticipation thereof;

(2) that such Government-owned plants and such reserve shall not exceed in number or kind the minimum requirements for immediate use in time of national emergency, and that any such items which shall become excess to such requirements shall be disposed of as expeditiously as possible;

(3) that to the maximum extent practicable, reliance will be placed upon private industry for support of defense production; and

(4) that machine tools and other industrial manufacturing equipment may be held in plant equipment packages or in a general reserve to maintain a high state of readiness for production of critical items of defense materiel, to provide production capacity not available in private industry for defense materiel, or to assist private industry in time of national disaster.

(b) **POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.**—(1) To execute the policy set forth **[in this section, the Secretary is authorized and directed to—]** *in subsection (a), the Secretary of Defense shall—*

(A) determine which industrial plants and installations (including machine tools and other industrial manufacturing equipment) should become a part of the **[defense industrial reserve]** *Defense Industrial Reserve*;

\* \* \* \* \*

(c) **DEFINITIONS.**—In this section:

**[(1)]** The term “Secretary” means Secretary of Defense.

**[(2)]** (1) The term “Defense Industrial Reserve” **[means]** *means—*

(A) a general reserve of industrial manufacturing equipment, including machine tools, selected by the Secretary of Defense for retention for national defense or for other emergency use;

(B) those industrial plants and installations held by and under the control of the Department of Defense in active or inactive status, including Government-owned/Government-operated plants and installations and Government-owned/contractor-operated plants and installations which are retained for use in their entirety, or in part, for production of military weapons systems, munitions, components, or supplies; *and*

(C) those industrial plants and installations under the control of the Secretary which are not required for the immediate need of any department or agency of the Government and which should be sold, leased, or otherwise disposed of.

**[(3)]** (2) The term “plant equipment package” means a complement of active and idle machine tools and other industrial manufacturing equipment held by and under the control of the Department of Defense and approved by the Secretary for retention to produce particular defense materiel or defense sup-

porting items at a specific level of output in the event of emergency.

\* \* \* \* \*

SUBCHAPTER VII—CRITICAL INFRASTRUCTURE PROTECTION LOAN GUARANTEES

\* \* \* \* \*

§ 2541c. Transferability, additional limitations, and definition

The following provisions of [subtitle] subchapter VI of this chapter apply to guarantees issued under this [subtitle] subchapter:

(1) \* \* \*

\* \* \* \* \*

CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

Sec.

2551. Equipment and barracks: national veterans' organizations.

\* \* \* \* \*

[2557. Excess nonlethal supplies: humanitarian relief.]

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

\* \* \* \* \*

2564. Provision of support for certain sporting events.

[2555.] 2565. Nuclear test monitoring equipment: furnishing to foreign governments.

\* \* \* \* \*

§ 2554. Equipment and other services: Boy Scout Jamborees

(a) \* \* \*

\* \* \* \* \*

(d) The Secretary of Defense is hereby authorized under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the [Military Airlift Command] Air Mobility Command for (1) those Boy Scouts, Scouters, and officials certified by the Boy Scouts of America, as representing the Boy Scouts of America at any national or world Boy Scout Jamboree, and (2) the equipment and property of such Boy Scouts, Scouters, and officials and the property loaned to the Boy Scouts of America, by the Secretary of Defense pursuant to this section to the extent that such transportation will not interfere with the requirements of military operations.

\* \* \* \* \*

§ 2555. Transportation services: international Girl Scout events

(a) The Secretary of Defense is authorized, under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States



or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the [Military Airlift Command] *Air Mobility Command* for (1) those Girl Scouts and officials certified by the Girl Scouts of the United States of America as representing the Girl Scouts of the United States of America at any International World Friendship Event or Troops on Foreign Soil meeting which is endorsed and approved by the National Board of Directors of the Girl Scouts of the United States of America and is conducted outside of the United States, (2) United States citizen delegates coming from outside of the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America, and (3) the equipment and property of such Girl Scouts and officials, to the extent that such transportation will not interfere with the requirements of military operations.

\* \* \* \* \*

**[§ 2557. Excess nonlethal supplies: humanitarian relief]**

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

(a)(1) The Secretary of Defense may make available for humanitarian relief purposes any nonlethal excess supplies of the Department of Defense.

(2) *The Secretary of Defense may make excess clothing, shoes, sleeping bags, and related nonlethal excess supplies available to the Secretary of Veterans Affairs for distribution to homeless veterans and programs assisting homeless veterans. The transfer of nonlethal excess supplies to the Secretary of Veterans Affairs under this paragraph shall be without reimbursement.*

\* \* \* \* \*

**§ 2563. Articles and services of industrial facilities: sale to persons outside the Department of Defense**

(a) \* \* \*

\* \* \* \* \*

(c) CONDITIONS FOR SALES.—(1) A sale of articles or services may be made under this section only if—

(A) \* \* \*

(B) the purchaser agrees to hold harmless and indemnify the United States, except [in any case of willful misconduct or gross negligence] *as provided in paragraph (3)*, from any claim for damages or injury to any person or property arising out of the articles or services;

\* \* \* \* \*

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

\* \* \* \* \*

**【§ 2555.】 § 2565. Nuclear test monitoring equipment: furnishing to foreign governments**

(a) AUTHORITY TO **【CONVEY OR】** *TRANSFER TITLE TO OR OTHERWISE PROVIDE NUCLEAR TEST MONITORING EQUIPMENT.*—Subject to subsection (b), the Secretary of Defense may—

(1) **【convey】** *transfer title* or otherwise provide to a foreign government (A) equipment for the monitoring of nuclear test explosions, and (B) associated equipment; **【and】**

(2) as part of any such conveyance or provision of equipment, install such equipment on foreign territory or in international waters~~【.】~~; *and*

(3) *inspect, test, maintain, repair, or replace any such equipment.*

(b) AGREEMENT REQUIRED.—Nuclear test explosion monitoring equipment may be **【conveyed or otherwise provided】** *provided to a foreign government* under subsection (a) only pursuant to the terms of an agreement between the United States and the foreign government receiving the equipment in which the recipient foreign government agrees—

(1) to provide the United States with timely access to the data produced, collected, or generated by the equipment; *and*

(2) to permit the Secretary of Defense to take such measures as the Secretary considers necessary to inspect, test, maintain, repair, or replace that equipment, including access for purposes of such measures~~【; and】~~.

**【(3) to return such equipment to the United States (or allow the United States to recover such equipment) if either party determines that the agreement no longer serves its interests.】**

\* \* \* \* \*

**CHAPTER 153—EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY**

Sec.  
2571. Interchange of property and services.

\* \* \* \* \*

2582. Military equipment identified on United States munitions list: annual report of public sales.

**【2582.】** 2583. Military working dogs: transfer and adoption at end of useful working life.

\* \* \* \* \*

**§ 2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange**

(a) The Secretary concerned may lend or give items described in subsection (c) that are not needed by the military department concerned (or by the Coast Guard, in the case of the Secretary of Transportation), to any of the following:

(1) A municipal corporation, *county, or other political subdivision of a State.*

(2) A **【soldiers’ monument】** *servicemen’s monument* association.

\* \* \* \* \*

(4) An incorporated museum *or memorial* that is operated and maintained for educational purposes only and the charter of which denies it the right to operate for profit.

\* \* \* \* \*

**[§ 2582.] § 2583. Military working dogs: transfer and adoption at end of useful working life**

(a) \* \* \*

\* \* \* \* \*

**CHAPTER 157—TRANSPORTATION**

Sec.  
2631. Supplies: preference to United States vessels.

\* \* \* \* \*

2647. *Transportation to annual meeting of next-of-kin of persons unaccounted for from conflicts after World War II.*

\* \* \* \* \*

**§ 2634. Motor vehicles: transportation or storage for members on change of permanent station or extended deployment**

(a) \* \* \*

(b)(1) \* \* \*

\* \* \* \* \*

(4) *Storage costs payable under this subsection may be paid in advance.*

\* \* \* \* \*

(h) In this section:

(1) The term “change of permanent station” means the transfer or assignment of a member of the armed forces from a permanent station inside the continental United States to a permanent station outside the continental United States or from a permanent station outside the continental United States to another permanent station. It also includes an authorized change in home port of a vessel, or a transfer or assignment between two permanent stations in the continental United States when the member cannot, because of injury or the conditions of the order, drive the motor vehicle between the permanent duty stations *or when the Secretary concerned determines that the transport of a vehicle upon such a transfer is advantageous and cost-effective to the United States.*

\* \* \* \* \*

**§ 2647. Transportation to annual meeting of next-of-kin of persons unaccounted for from conflicts after World War II**

*The Secretary of Defense may provide transportation for the next-of-kin of persons who are unaccounted for from the Korean conflict, the Cold War, Vietnam War era, or the Persian Gulf War to and from an annual meeting in the United States. Such transportation*

shall be provided under such regulations as the Secretary of Defense may prescribe.

**CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NONEXCESS PROPERTY**

Sec.  
2661. Miscellaneous administrative provisions relating to real property.

\* \* \* \* \*

**[2693. Conveyance of certain property.]**  
2693. *Conveyance of certain property: Department of Justice correctional options program.*

\* \* \* \* \*

**§ 2671. Military reservations and facilities: hunting, fishing, and trapping**

(a) \* \* \*

(b) *Subsection (a) shall not apply with respect to all or certain specified hunting, fishing, or trapping at a military installation or facility if the Secretary of Defense determines that the application of the State or Territory fish and game laws to such hunting, fishing, or trapping without modification could result in undesirable consequences for public safety or adverse effects on morale, welfare, or recreation activities at the installation or facility. The Secretary may not waive or modify the requirements under subsection (a)(2) regarding a license for such hunting, fishing, or trapping or any fee imposed by a State or Territory to obtain such a license.*

\* \* \* \* \*

**[(b)] (e)** The Secretary of Defense shall prescribe regulations to carry out this section.

\* \* \* \* \*

**§ 2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities**

(a) \* \* \*

\* \* \* \* \*

(f) **REIMBURSEMENT FOR NONCOMMISSARY USE OF COMMISSARY FACILITIES.**—(1) *If the Secretary concerned uses for noncommissary purposes a commissary facility whose construction was financed (in whole or in part) using the proceeds of adjustments or surcharges authorized by subsection (a) or revenues referred to in subsection (e), the Secretary concerned shall reimburse the commissary surcharge account for the depreciated value of the investment made with such proceeds and revenues.*

(2) *In paragraph (1), the term “construction” has the meaning given such term in subsection (d)(2).*

\* \* \* \* \*

**§ 2692. Storage, treatment, and disposal of nondefense toxic and hazardous materials**

(a) \* \* \*

\* \* \* \* \*

(d)(1) \* \* \*

(2) In the case of storage under this section authorized because of an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. *In the case of the storage of mercury under subsection (b)(12), the storage provided shall cease as soon as practicable after the Administrator of the Environmental Protection Agency certifies to the Secretary of Defense that a disposal method for mercury satisfying the criteria specified in such subsection has been developed.* In all other cases of storage or disposal authorized under this section, the storage or disposal authorized shall be terminated as determined by the Secretary.

\* \* \* \* \*

**[§ 2693. Conveyance of certain property]**

**§ 2693. Conveyance of certain property: Department of Justice correctional options program**

(a) Except as provided in subsection (b), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary of Defense shall—

(1) \* \* \*

\* \* \* \* \*

(3) if the Attorney General certifies to the Secretary of Defense that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a), convey the real property or facility, without reimbursement, [to the public agencies referred to in section 515(a)(1) or 515(a)(3) of title I of such Act] to a public agency referred to in paragraph (1) or (3) of subsection (a) of such section for such utilization.

\* \* \* \* \*

**CHAPTER 160—ENVIRONMENTAL RESTORATION**

Sec.

2701. Environmental restoration program.

\* \* \* \* \*

2710. Former military ranges: inventory of explosive risk sites; use of inventory; public safety issues.

2711. Environmental impact statements and environmental assessments: evaluation of national security impacts of proposed action and alternatives.

\* \* \* \* \*

**§ 2706. Annual reports to Congress**

(a) \* \* \*

\* \* \* \* \*

[(c) REPORT ON CONTRACTOR REIMBURSEMENT COSTS.—(1) The Secretary of Defense shall submit to the Congress each year, not later than 45 days after the date on which the President submits to the Congress the budget for a fiscal year, a report on payments made by the Secretary to defense contractors for the costs of environmental response actions.

[(2) Each such report shall include, for the fiscal year preceding the year in which the report is submitted, the following:

[(A) An estimate of the payments made by the Secretary to any defense contractor (other than a response action contractor) for the costs of environmental response actions at facilities owned or operated by the defense contractor or at which the defense contractor is liable in whole or in part for the environmental response action.

[(B) A statement of the amount and current status of any pending requests by any defense contractor (other than a response action contractor) for payment of the costs of environmental response actions at facilities owned or operated by the defense contractor or at which the defense contractor is liable in whole or in part for the environmental response action.]

\* \* \* \* \*

**§2710. Former military ranges: inventory of explosive risk sites; use of inventory; public safety issues**

(a) DEFINITIONS.—*In this section:*

(1) The term “former military range” means a military range presently located in the United States that—

(A) is or was owned by, leased to, or otherwise possessed or used by the Federal Government;

(B) is designated as a closed, transferred, or transferring military range (rather than as an active or inactive range);

or

(C) is or was used as a site for the disposal of military munitions or for the use of military munitions in training or research, development, testing, and evaluation.

(2) The term “abandoned military munitions” means unexploded ordnance and other abandoned military munitions, including components thereof and chemical weapons materiel, that pose a threat to human health or safety.

(3) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions.

(4) The term “United States”, in a geographic sense, includes the Commonwealth of Puerto Rico and the territories and possessions.

(b) INVENTORY REQUIRED.—(1) The Secretary of Defense shall develop and maintain an inventory of former military ranges that are known or suspected to contain abandoned military munitions.

(2) The information for each former military range in the inventory shall include, at a minimum, the following:

(A) A unique identifier for the range and its current designation as either a closed, transferred, or transferring range.

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

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

(D) Any restrictions or other land use controls currently in place that might affect the potential for public and environmental exposure to abandoned military munitions.

(c) *SITE PRIORITIZATION.*—(1) With respect to each former military range included on the inventory, the Secretary of Defense shall assign the range a relative priority for response activities based on the overall conditions at the range. The level of response priority assigned the range shall be included with the information required by subsection (b)(2) to be maintained for the range.

(2) In assigning the response priority for a former military range, the Secretary of Defense shall primarily consider factors relating to safety and environmental hazard potential, such as the following:

(A) Whether there are known, versus suspected, abandoned military munitions on all or any portion of the range and the types of munitions present or suspected to be present.

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

(C) The potential for direct human contact with abandoned military munitions at the range and evidence of people entering the range.

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

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

(F) The extent of any documented incidents involving abandoned military munitions at or from the range. In this subparagraph, the term “incidents” means any or all of the following: explosions, discoveries, injuries, reports, and investigations.

(G) The potential for drinking water contamination or the release of weapon components into the air.

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

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

(2) The Secretary of Defense shall work with adjacent communities to provide information concerning conditions at the former military range and response activities, and shall respond to inquiries. At a minimum, the Secretary shall notify immediately affected individuals, appropriate State, local, tribal, and Federal officials, and, when appropriate, civil defense or emergency management agencies.

**§2711. Environmental impact statements and environmental assessments: evaluation of national security impacts of proposed action and alternatives**

(a) *AGENCY ACTION.*—Whenever an environmental impact statement or environmental assessment is required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) to be prepared in connection with a proposed Department of Defense action, the Secretary of Defense shall include as a part of the environmental impact statement or environmental assessment a detailed evaluation of the impact of the proposed action, and each alternative to the proposed action considered in the statement or assessment, on national security, including the readiness, training, testing, and operations of the armed forces.

(b) *AGENCY INPUT.*—The Secretary of Defense shall also include the evaluation required by subsection (a) in any input provided by the Department of Defense as a cooperating agency to a lead agency preparing an environmental impact statement or environmental assessment.

\* \* \* \* \*

**CHAPTER 169—MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING**

\* \* \* \* \*

**SUBCHAPTER I—MILITARY CONSTRUCTION**

\* \* \* \* \*

**§ 2805. Unspecified minor construction**

(a) \* \* \*

(b)(1) An unspecified minor military construction project costing more than **[\$500,000]** \$750,000 may not be carried out under this section unless approved in advance by the Secretary concerned. This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.

\* \* \* \* \*

(c)(1) Except as provided in paragraphs (2) and (3), the Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than—

(A) **[\$1,000,000]** \$1,500,000, in the case of an unspecified minor military construction project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

(B) **[\$500,000]** \$750,000, in the case of any other unspecified minor military construction project.

\* \* \* \* \*



**§ 2814. Special authority for development of Ford Island, Hawaii**

(a) \* \* \*

\* \* \* \* \*

(j) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.— Except as otherwise provided in this section, transactions under this section shall not be subject to the following:

(1) \* \* \*

(2) Section 501 of the **Stewart B. McKinney Homeless Assistance Act** *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11411).

\* \* \* \* \*

**SUBCHAPTER II—MILITARY FAMILY HOUSING**

\* \* \* \* \*

**§ 2832. Homeowners assistance program**

**[(a)]** The Secretary of Defense may exercise the authority provided in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

**[(b)(1)]** Subject to paragraph (2) and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a)—

**[(A)]** the Secretary of Defense may transfer not more than \$31,000,000 from the Department of Defense Base Closure Account, established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627), to the fund established pursuant to subsection (d) of such section 1013 for use as part of such fund; and

**[(B)]** any funds so transferred shall be available for obligation and expenditure for the same purposes that funds appropriated to such fund are available, except that such funds may not be obligated after September 30, 1991.

**[(2)]** Amounts may be transferred under paragraph (1) only after the date on which the appropriate committees of Congress receive from the Secretary written notice of, and justification for, the transfer.]

\* \* \* \* \*

**SUBCHAPTER III—ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING**

Sec. 2851. Supervision of military construction projects.

\* \* \* \* \*

**[2861. Annual report to Congress.]**

\* \* \* \* \*

**§ 2853. Authorized cost variations**

(a) \* \* \*

\* \* \* \* \*

[(d) The limitation on cost increases in subsection (a) does not apply to the settlement of a contractor claim under a contract.]

(d) *The limitation on cost increases in subsection (a) does not apply—*

(1) *to the settlement of a contractor claim under a contract;*  
*or*

(2) *to the costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.*

\* \* \* \* \*

**§ 2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds**

(a) \* \* \*

\* \* \* \* \*

(d) **INAPPLICABILITY OF CERTAIN PROPERTY DISPOSAL LAWS.**—The following provisions of law do not apply to the conveyance of a family housing facility under this section:

(1) \* \* \*

(2) Title V of the [Stewart B. McKinney Homeless Assistance Act] *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11411 et seq.).

\* \* \* \* \*

**[§ 2861. Annual report to Congress**

[(a) The Secretary of Defense shall submit a report to the appropriate committees of Congress each year with respect to military construction activities and military family housing activities. Each such report shall be submitted at the same time that the annual request for military construction authorization is submitted for that year. Except where otherwise provided in this section, information required by this section to be provided in the report shall be provided for the two most recent fiscal years and for the fiscal year for which the budget request is made.

[(b) Each report under subsection (a) shall include the following:

[(1) A statement of the construction status and a fiscal summary of the military construction projects undertaken under, and the amounts authorized and appropriated for, contingency construction under section 2804 of this title.

[(2) Information to enable the committees to evaluate the relationships between budget requests for appropriations for unspecified minor construction projects under section 2805 of this title and obligations of appropriated funds for projects under such section. Such information shall include comparisons of budget requests and obligations using military construction appropriations and using operations and maintenance appropria-

tions, maintenance and repair backlog, and obligations for maintenance and repair.

【(3) Information to enable the committees to monitor trends in construction started using funds contributed by the United States under section 2806 of this title to the North Atlantic Treaty Organization Security Investment program and the status of recoupments under that program.

【(4) Information to enable the committees to evaluate trends in contracting for architect and engineering services and construction design, and trends in accomplishing design of construction projects by Government employees, under the authority of section 2807 of this title.

【(5) Information to enable the committees to evaluate trends in supervision, inspection, and overhead costs for the dollar amount of military construction accomplished during a fiscal year by a military construction department or agency under the authority of section 2851 of this title.

【(6) A summary of military construction projects (other than a military construction project for an amount less than the amount specified by section 2805(a)(1) of this title as the maximum amount for a minor military construction project) placed under contract during the preceding fiscal year with respect to which a cost variation or scope reduction report was supplied to the appropriate committees of Congress under section 2853 of this title. There shall also be included an analysis to indicate whether the cost variation was the result of a lack of competition, quality of plans and specifications, or quality of budget estimates, or of other factors.

【(7) Information to enable the committees to evaluate the use of the authority provided under section 2858 of this title to expedite a military construction project when such expediting is required to protect the national interest.

【(8) Information in sufficient detail to enable the committees to monitor trends in design, construction, performance goals, and progress.

【(9) With respect to each contract awarded during the preceding fiscal year on other than a competitive basis to the lowest responsible bidder, the name of the contractor, the original amount of the contract, and the reason for the award of the contract on other than a competitive basis.】

\* \* \* \* \*

SUBCHAPTER IV—ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING

Sec.  
2871. Definitions.

\* \* \* \* \*

【2885. Expiration of authority.】

\* \* \* \* \*

**§ 2878. Conveyance or lease of existing property and facilities**

(a) \* \* \*

\* \* \* \* \*

(d) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

(1) \* \* \*

\* \* \* \* \*

(4) Section 501 of the [Stewart B. McKinney Homeless Assistance Act] *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11411).

\* \* \* \* \*

**[§ 2885. Expiration of authority**

[The authority to enter into a contract under this subchapter shall expire on December 31, 2004.]

\* \* \* \* \*

**Subtitle B—Army**

**PART I—ORGANIZATION**

\* \* \* \* \*

**CHAPTER 303—DEPARTMENT OF THE ARMY**

\* \* \* \* \*

**§ 3014. Office of the Secretary of the Army**

(a) \* \* \*

\* \* \* \* \*

(f)(1) \* \* \*

\* \* \* \* \*

(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed [the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection.] 67.

\* \* \* \* \*

**PART II—PERSONNEL**

\* \* \* \* \*

## CHAPTER 333—ENLISTMENTS

Sec.

3251. Definition.

\* \* \* \* \*

3264. 18-month enlistment pilot program.

\* \* \* \* \*

**§ 3264. 18-month enlistment pilot program**

(a) During the pilot program period, the Secretary of the Army shall carry out a pilot program with the objective of increasing participation of prior service persons in the Selected Reserve and providing assistance in building the pool of participants in the Individual Ready Reserve.

(b) Under the program, the Secretary may, notwithstanding section 505(c) of this title, accept persons for original enlistment in the Army for a term of enlistment consisting of 18 months service on active duty, to be followed by three years of service in the Selected Reserve and then service in the Individual Ready Reserve to complete the military service obligation.

(c) No more than 10,000 persons may be accepted for enlistment in the Army through the program under this section.

(d) A person enlisting in the Army through the program under this section is eligible for an enlistment bonus under section 309 of title 37, notwithstanding the enlistment time period specified in subsection (a) of that section.

(e) For purposes of the program under this section, the pilot program period is the period beginning on October 1, 2003, and ending on December 31, 2007.

(f) Not later than December 31, 2007, and December 31, 2012, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the program under this section. In each such report, the Secretary shall set forth the views of the Secretary on the success of the program in meeting the objectives stated in subsection (a) and whether the program should be continued and, if so, whether it should be modified or expanded.

\* \* \* \* \*

## CHAPTER 357—DECORATIONS AND AWARDS

Sec.

3741. Medal of honor: award.

\* \* \* \* \*

3754. Medal of honor: duplicate medal.

3755. Korea Defense Service Medal.

\* \* \* \* \*

**§ 3747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement**

Any medal of honor, distinguished-service cross, distinguished-service medal, or silver star, or any bar, ribbon, rosette, or other device issued for wear with or in place of any of them, that is [lost or destroyed] *stolen, lost, or destroyed*, or becomes unfit for use,

without fault or neglect of the person to whom it was awarded, shall be replaced without charge.

\* \* \* \* \*

**§ 3754. Medal of honor: duplicate medal**

*A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Army may determine, as a duplicate or for display purposes only.*

**§ 3755. Korea Defense Service Medal**

*(a) The Secretary of the Army shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Army served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).*

*(b) In this section, the term "KDSM eligibility period" means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.*

*(c) The Secretary of the Army shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.*

\* \* \* \* \*

**CHAPTER 367—RETIREMENT FOR LENGTH OF SERVICE**

\* \* \* \* \*

**§ 3911. Twenty years or more: regular or reserve commissioned officers**

(a) \* \* \*

(b) The Secretary of Defense may authorize the Secretary of the Army, during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, to reduce the requirement under subsection (a) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary of the Army) of not less than eight years.

\* \* \* \* \*

**CHAPTER 373—CIVILIAN EMPLOYEES**

\* \* \* \* \*

**§ 4021. Army War College and United States Army Command and General Staff College: civilian faculty members**

(a) \* \* \*

\* \* \* \* \*

(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—(1) Except as provided in paragraph (2), this section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at the Army War College or the United States Army Command and General Staff College after the end of the 90-day period beginning on [the date of the enactment of this section.] *November 29, 1989.*

\* \* \* \* \*

### PART III—TRAINING

\* \* \* \* \*

#### CHAPTER 403—UNITED STATES MILITARY ACADEMY

\* \* \* \* \*

##### § 4337. Chaplain

There shall be a chaplain at the Academy, who must be a clergyman, appointed by the President for a term of four years. [The chaplain is entitled to the same allowances for public quarters as are allowed to a captain, and to fuel and light for quarters in kind.] *Notwithstanding any other provision of law, the chaplain is entitled to the same basic allowance for housing allowed to a lieutenant colonel, and to fuel and light for quarters in kind.* The chaplain may be reappointed.

\* \* \* \* \*

##### § 4344. Selection of persons from foreign countries

(a)(1) The Secretary of the Army may permit not more than [40] 60 persons at any one time from foreign countries to receive instruction at the Academy. Such persons shall be in addition to the authorized strength of the Corps of the Cadets of the Academy under section 4342 of this title.

\* \* \* \* \*

(b)(1) \* \* \*

(2) Each foreign country from which a cadet is permitted to receive instruction at the Academy under this section shall reimburse the United States for the cost of providing such instruction, including the cost of pay, allowances, and emoluments provided under paragraph (1) unless a written waiver of *some or all* reimbursement is granted by the Secretary of Defense. The Secretary of the Army shall prescribe the rates for reimbursement under this paragraph, except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States.

[(3) The amount of reimbursement waived under paragraph (2) may not exceed 50 percent of the per-person reimbursement amount otherwise required to be paid by a foreign country under such paragraph, except in the case of not more than 20 persons re-

ceiving instruction at the Academy under this section at any one time.】

\* \* \* \* \*

**§ 4353. Cadets: degree and commission on graduation**

(a) \* \* \*

【(b) Notwithstanding any other provision of law, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Army under section 531 of this title.】

*(b) A cadet who completes the prescribed course of instruction, is qualified for an original appointment in a regular component under section 532 of this title, and meets such other criteria for appointment as a commissioned officer in the Army as may be prescribed by the Secretary of the Army shall, upon graduation, be appointed a second lieutenant in the Regular Army under section 531 of this title, unless appointed under that section in a regular component of one of the other armed forces in accordance with section 541 of this title.*

\* \* \* \* \*

**Subtitle C—Navy and Marine Corps**

**PART I—ORGANIZATION**

\* \* \* \* \*

**CHAPTER 503—DEPARTMENT OF THE NAVY**

\* \* \* \* \*

**§ 5014. Office of the Secretary of the Navy**

(a) \* \* \*

\* \* \* \* \*

(f)(1) \* \* \*

\* \* \* \* \*

(3) The total number of general and flag officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 【the number equal to 85 percent of the number of general and flag officers assigned or detailed to such duty on the date of the enactment of this subsection.】 74.

\* \* \* \* \*

**CHAPTER 505—OFFICE OF THE CHIEF OF NAVAL OPERATIONS**

\* \* \* \* \*

**§ 5038. Director for Expeditionary Warfare**

(a) One of the Directors within the 【Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments】 *office of the Deputy Chief of Naval Operations with re-*



responsibility for warfare requirements and programs shall be the Director for Expeditionary Warfare who shall be detailed from officers on the active-duty list of the Marine Corps.

\* \* \* \* \*

## PART II—PERSONNEL

\* \* \* \* \*

### CHAPTER 565—BANDS

Sec.

6221. United States Navy Band.]

6221. *United States Navy Band; officer in charge.*

\* \* \* \* \*

#### § 6221. United States Navy Band

[There is a Navy band known as the United States Navy Band.]

#### § 6221. *United States Navy Band; officer in charge*

(a) *There is a Navy band known as the United States Navy Band.*

(b) *An officer of the Navy designated for limited duty under section 5589 or 5596 of this title who is serving in a grade not below lieutenant commander may be detailed by the Secretary of the Navy as Officer in Charge of the United States Navy Band. While so serving, an officer so detailed shall hold the grade of captain if recommended by the Secretary of the Navy for appointment to that grade and appointed to that grade by the President, by and with the advice and consent of the Senate. Such an appointment may be made notwithstanding section 5596(d) of this title.*

\* \* \* \* \*

### CHAPTER 567—DECORATIONS AND AWARDS

Sec.

6241. Medal of honor.

\* \* \* \* \*

6256. *Medal of honor: duplicate medal.*

6257. *Korea Defense Service Medal.*

\* \* \* \* \*

#### § 6253. Replacement

The Secretary of the Navy may replace without charge any medal of honor, Navy cross, distinguished-service medal, silver star medal, or Navy and Marine Corps Medal, or any associated bar, emblem, or insignia awarded under this chapter that is [lost or destroyed] *stolen, lost, or destroyed* or becomes unfit for use without fault or neglect on the part of the person to whom it was awarded.

\* \* \* \* \*

#### § 6256. *Medal of honor: duplicate medal*

*A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of*

honor shall be marked, in such manner as the Secretary of the Navy may determine, as a duplicate or for display purposes only.

**§ 6257. Korea Defense Service Medal**

(a) The Secretary of the Navy shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Navy or Marine Corps served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

(b) In this section, the term “KDSM eligibility period” means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

(c) The Secretary of the Navy shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.

\* \* \* \* \*

**CHAPTER 571—VOLUNTARY RETIREMENT**

\* \* \* \* \*

**§ 6323. Officers: 20 years**

(a)(1) \* \* \*

(2) The Secretary of Defense may authorize the Secretary of the Navy, during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years.

\* \* \* \* \*

**§ 6328. Computation of years of service: voluntary retirement**

(a) ENLISTED MEMBERS.—Time required to be made up under section 972(a) of this title after [the date of the enactment of this section] February 10, 1996, may not be counted in computing years of service under this chapter.

\* \* \* \* \*

**PART III—EDUCATION AND TRAINING**

\* \* \* \* \*

**CHAPTER 603—UNITED STATES NAVAL ACADEMY**

\* \* \* \* \*

**§ 6957. Selection of persons from foreign countries**

(a)(1) The Secretary of the Navy may permit not more than **[40]** 60 persons at any one time from foreign countries to receive instruction at the Academy. Such persons shall be in addition to the authorized strength of the midshipmen under section 6954 of this title.

\* \* \* \* \*

(b)(1) \* \* \*

(2) Each foreign country from which a midshipman is permitted to receive instruction at the Academy under this section shall reimburse the United States for the cost of providing such instruction, including the cost of pay, allowances, and emoluments provided under paragraph (1) unless a written waiver of *some or all* reimbursement is granted by the Secretary of Defense. The Secretary of the Navy shall prescribe the rates for reimbursement under this paragraph, except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a midshipman appointed from the United States.

**[(3) The amount of reimbursement waived under paragraph (2) may not exceed 50 percent of the per-person reimbursement amount otherwise required to be paid by a foreign country under such paragraph, except in the case of not more than 20 persons receiving instruction at the Naval Academy under this section at any one time.]**

\* \* \* \* \*

**§ 6967. Degree on graduation**

(a) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy may confer the degree of bachelor of science upon graduates of the Academy.

*(b) A midshipman who completes the prescribed course of instruction, is qualified for an original appointment in a regular component under section 532 of this title, and meets such other criteria for appointment as a commissioned officer in the naval service as may be prescribed by the Secretary of the Navy shall, upon graduation, be appointed an ensign in the Regular Navy or a second lieutenant in the Regular Marine Corps under section 531 of this title, unless appointed under that section in a regular component of one of the other armed forces in accordance with section 541 of this title.*

\* \* \* \* \*

**CHAPTER 609—PROFESSIONAL MILITARY EDUCATION SCHOOLS**

Sec.

7101. Naval War College: master of arts in national security and strategic studies.

**[7102. Marine Corps University: master of military studies.]**

7102. Marine Corps University: masters degrees; board of advisors.

\* \* \* \* \*

**【§ 7102. Marine Corps University: master of military studies】**

**§ 7102. Marine Corps University: masters degrees; board of advisors**

(a) **AUTHORITY.**—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of military studies **【upon graduates of the college who fulfill the requirements for the degree.】** *upon graduates of the Command and Staff College who fulfill the requirements for that degree.*

(b) **MARINE CORPS WAR COLLEGE.**—*Upon the recommendation of the Director and faculty of the Marine Corps War College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the Marine Corps War College who fulfill the requirements for that degree.*

**【(b)】** (c) **REGULATIONS.**—The authority provided by **【subsection (a)】** subsections (a) and (b) shall be exercised under regulations prescribed by the Secretary of the Navy.

(d) **BOARD OF ADVISORS.**—*The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.*

\* \* \* \* \*

**PART IV—GENERAL ADMINISTRATION**

\* \* \* \* \*

**CHAPTER 633—NAVAL VESSELS**

\* \* \* \* \*

**§ 7307. Disposals to foreign nations**

(a) **【LARGER OR NEWER】 CERTAIN COMBATANT VESSELS.**—**【A naval vessel】** *Except as provided in subsection (b), a combatant naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is 【approved by law enacted after August 5, 1974】 specifically approved by law.* A lease or loan of such a vessel under such a law may be made only in accordance with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.).

(b) **TREATMENT OF VESSELS HELD BY FOREIGN NATIONS BY LOAN OR LEASE.**—*Subsection (a) shall not apply to the disposal to another nation of a vessel described in that subsection that, at the time of the disposal, is held by the nation to which the disposal is to be made pursuant to a loan or lease arrangement made under section 61 of the Arms Export Control Act (22 U.S.C. 2796) or any other provision of law.*

**[(b)] (c) OTHER VESSELS.—(1) \* \* \***

\* \* \* \* \*

*(d) INAPPLICABILITY OF VESSEL DISPOSALS TO AGGREGATE ANNUAL VALUE LIMITATIONS.—The value of a vessel transferred to another country under an applicable provision of law as described in subsection (c) shall not be counted for the purposes of any aggregate limit on the value of articles transferred to other countries under that provision of law during any year (or other applicable period of time).*

\* \* \* \* \*

#### **CHAPTER 641—NAVAL PETROLEUM RESERVES**

\* \* \* \* \*

#### **§ 7430. Disposition of products**

(a) \* \* \*

(b)(1) \* \* \*

(2) The Secretary may not sell any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 2 and 3 [at a price less than the higher of—

**[(A) the current sales price] at a price less than the current sales price,** as estimated by the Secretary, of comparable petroleum in the same area[; or].

**[(B) the price of petroleum being purchased for the Strategic Petroleum Reserve, minus the cost of transporting petroleum from the naval petroleum reserve concerned to the nearest storage area of the Strategic Petroleum Reserve, with adjustments for the difference in the quality of the petroleum being purchased for the Strategic Petroleum Reserve and petroleum being produced from the naval petroleum reserve concerned.]**

\* \* \* \* \*

#### **§ 7439. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production**

(a) TRANSFER REQUIRED.—(1) \* \* \*

(2) Not later than [one year after the date of the enactment of this section,] *November 18, 1998*, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction over those public domain lands included within the developed tract of Oil Shale Reserve Numbered 3, which consists of approximately 6,000 acres and 24 natural gas wells, together with pipelines and associated facilities.

\* \* \* \* \*

(b) AUTHORITY TO LEASE.—(1) Beginning on [the date of the enactment of this section,] *November 18, 1997*, or as soon thereafter as practicable, the Secretary of the Interior shall enter into leases with one or more private entities for the purpose of exploration for, and development and production of, petroleum (other than in the form of oil shale) located on or in public domain lands in Oil Shale Reserves Numbered 1 and 3 (including the developed tract of Oil Shale Reserve Numbered 3). Any such lease shall be made in ac-

cordance with the requirements of the Mineral Leasing Act (30 U.S.C. 181 et seq.) regarding the lease of oil and gas lands and shall be subject to valid existing rights.

(2) Notwithstanding the delayed transfer of the developed tract of Oil Shale Reserve Numbered 3 under subsection (a)(2), the Secretary of the Interior shall enter into a lease under paragraph (1) with respect to the developed tract before **the end of the one-year period beginning on the date of the enactment of this section.** *November 18, 1998.*

\* \* \* \* \*

(f) TREATMENT OF RECEIPTS.—(1) \* \* \*

(2) The period referred to in this subsection is the period beginning on **the date of the enactment of this section** *November 18, 1997*, and ending on the date on which the Secretary of Energy and the Secretary of the Interior jointly certify to Congress that the sum of the moneys deposited in the Treasury under paragraph (1) is equal to the total of the following:

(A) \* \* \*

\* \* \* \* \*

**CHAPTER 647—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL**

\* \* \* \* \*

**§ 7545. Obsolete material and articles of historical interest: loan or gift**

(a) **Subject to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486), the Secretary of the Navy, under regulations prescribed by him,** *AUTHORITY TO MAKE LOANS AND GIFTS.—The Secretary of the Navy may lend or give, without expense to the United States, captured, condemned, or obsolete ordnance material, books, manuscripts, works of art, drawings, plans, and models, other condemned or obsolete material, trophies, and flags, and other material of historic interest not needed by the Department of the Navy, to—* **items described in subsection (b) that are not needed by the Department of the Navy to any of the following:**

- (1) **[a]** A State, Territory, Commonwealth, or possession of the United States, or political subdivision or municipal corporation thereof**;**
- (2) **[the]** *The* District of Columbia**;**
- (3) **[a]** A library**;**
- (4) **[a]** A historical society**;**
- (5) **[an]** *An* educational institution whose graduates or students fought in **[World War I or World War II;** *a foreign war.*
- (6) **[a soldiers' monument]** *A servicemen's monument association;*
- (7) **[a]** A State museum**;**
- (8) **[a]** A museum *or memorial* operated and maintained for educational purposes only, whose charter denies it the right to operate for profit**;**
- (9) **[a]** A post of the Veterans of Foreign Wars of the United States**;**

(10) [a] A post of the American Legion[;].

(11) [any] Any other recognized war veterans' association[; or].

(12) [a] A post of the Sons of Veterans Reserve.

(b) *ITEMS ELIGIBLE FOR DISPOSAL.*—This section applies to the following types of property held by the Department of the Navy:

(1) *Captured, condemned, or obsolete ordnance material.*

(2) *Captured, condemned, or obsolete combat or shipboard material.*

(c) *REGULATIONS.*—A loan or gift made under this section shall be subject to regulations prescribed by the Secretary of the Navy and to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486).

[(b)] (d) *MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.*—Records of the Government as defined in section 3301 of title 44 may not be disposed of under this section.

[(c)] (e) *ALTERNATIVE AUTHORITIES TO MAKE GIFTS OR LOANS.*—If any disposition is authorized by this section and section 2572 of this title, the Secretary may make the gift or loan under either section.

(f) *AUTHORITY TO TRANSFER A PORTION OF A VESSEL.*—The Secretary may lend, give, or otherwise transfer any portion of the hull or superstructure of a vessel stricken from the Naval Vessel Register and designated for scrapping to a qualified organization specified in subsection (a). The terms and conditions of an agreement for the transfer of a portion of a vessel under this section shall include a requirement that the transferee will maintain the material conveyed in a condition that will not diminish the historical value of the material or bring discredit upon the Navy.

\* \* \* \* \*

**CHAPTER 653—CLAIMS**

\* \* \* \* \*

**§ 7622. Admiralty claims against the United States**

(a) The Secretary of the Navy may settle, or compromise, and pay in an amount not more than [ \$1,000,000 ] \$15,000,000 an admiralty claim against the United States for—

(1) \* \* \*

\* \* \* \* \*

(b) If a claim under this section is settled or compromised for more than [ \$1,000,000 ] \$15,000,000, the Secretary shall certify it to Congress.

(c) In any case where the amount to be paid is not more than [ \$100,000 ] \$1,000,000, the Secretary may delegate his authority under this section to any person designated by him.

\* \* \* \* \*

**§ 7623. Admiralty claims by the United States**

(a) The Secretary of the Navy may settle, or compromise, and receive payment of a claim by the United States for damage to property under the jurisdiction of the Department of the Navy or prop-

erty for which the Department has assumed an obligation to re-  
spond for damage, if—

(1) \* \* \*

(2) the net amount to be received by the United States is not  
more than **[\$1,000,000] \$15,000,000.**

\* \* \* \* \*

(c) In any case where the amount to be received by the United  
States is not more than **[\$100,000] \$1,000,000,** the Secretary may  
delegate his authority under this section to any person designated  
by him.

\* \* \* \* \*

**Subtitle D—Air Force**

**PART I—ORGANIZATION**

\* \* \* \* \*

**CHAPTER 803—DEPARTMENT OF THE AIR FORCE**

\* \* \* \* \*

**§ 8014. Office of the Secretary of the Air Force**

(a) \* \* \*

\* \* \* \* \*

(f)(1) \* \* \*

\* \* \* \* \*

(3) The total number of general officers assigned or detailed to  
permanent duty in the Office of the Secretary of the Air Force and  
on the Air Staff may not exceed **[the number equal to 85 percent**  
**of the number of general officers assigned or detailed to such duty**  
**on the date of the enactment of this subsection.] 60.**

\* \* \* \* \*

**CHAPTER 807—THE AIR FORCE**

Sec.  
8061. Regulations.

\* \* \* \* \*

8063. *Contracts for space launches: responsibility of Air Force for all Department  
of Defense elements.*

\* \* \* \* \*

**§ 8063. Contracts for space launches: responsibility of Air  
Force for all Department of Defense elements**

*The Secretary of the Air Force shall ensure that contracts for  
space launch vehicles and space launch services for all elements of  
the Department of Defense are prepared, negotiated, executed, and  
managed in a manner that maximizes launch effectiveness, mini-  
mizes cost of launch services, provides clear visibility to all elements*



*into contract costs and functions, and, where practicable, takes advantage of commercial space launch capabilities.*

\* \* \* \* \*

**§ 8074. Commands: territorial organization**

(a) \* \* \*

\* \* \* \* \*

**[(c) The Military Air Transport Service is redesignated as the Military Airlift Command.]**

\* \* \* \* \*

**PART II—PERSONNEL**

\* \* \* \* \*

**CHAPTER 845—RANK AND COMMAND**

Sec.  
8572. Rank: commissioned officers serving under temporary appointments.

\* \* \* \* \*

8584. *Commander of Air Force Space Command.*

\* \* \* \* \*

**§ 8584. Commander of Air Force Space Command**

*The Secretary of Defense may require that the officer serving as commander of the Air Force Space Command not serve simultaneously as commander of the United States Space Command (or any successor combatant command with responsibility for space) or as commander of the United States element of the North American Air Defense Command.*

\* \* \* \* \*

**CHAPTER 857—DECORATIONS AND AWARDS**

Sec.  
8741. Medal of honor: award.

\* \* \* \* \*

8754. *Medal of honor: duplicate medal.*

8755. *Korea Defense Service Medal.*

\* \* \* \* \*

**§ 8747. Medal of honor; Air Force cross; distinguished-service cross; distinguished-service medal; silver star: replacement**

Any medal of honor, Air Force cross, distinguished-service cross, distinguished-service medal, or silver star, or any bar, ribbon, rosette, or other device issued for wear with or in place of any of them, that is **[lost or destroyed]** *stolen, lost, or destroyed*, or becomes unfit for use, without fault or neglect of the person to whom it was awarded, shall be replaced without charge.

\* \* \* \* \*

**§ 8754. Medal of honor: duplicate medal**

*A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Air Force may determine, as a duplicate or for display purposes only.*

**§ 8755. Korea Defense Service Medal**

*(a) The Secretary of the Air Force shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Air Force served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).*

*(b) In this section, the term "KDSM eligibility period" means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.*

*(c) The Secretary of the Air Force shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.*

\* \* \* \* \*

**CHAPTER 867—RETIREMENT FOR LENGTH OF SERVICE**

\* \* \* \* \*

**§ 8911. Twenty years or more: regular or reserve commissioned officers**

(a) \* \* \*

(b) The Secretary of Defense may authorize the Secretary of the Air Force, during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, to reduce the requirement under subsection (a) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary of the Air Force) of not less than eight years.

\* \* \* \* \*

**PART III—TRAINING**

\* \* \* \* \*

**CHAPTER 903—UNITED STATES AIR FORCE ACADEMY**

\* \* \* \* \*

**§ 9344. Selection of persons from foreign countries**

(a)(1) The Secretary of the Air Force may permit not more than [40] 60 persons at any one time from foreign countries to receive instruction at the Academy. Such persons shall be in addition to

the authorized strength of the Air Force Cadets of the Academy under section 9342 of this title.

\* \* \* \* \*

(b)(1) \* \* \*

(2) Each foreign country from which a cadet is permitted to receive instruction at the Academy under this section shall reimburse the United States for the cost of providing such instruction, including the cost of pay, allowances, and emoluments provided under paragraph (1) unless a written waiver of *some or all* reimbursement is granted by the Secretary of Defense. The Secretary of the Air Force shall prescribe the rates for reimbursement under this paragraph, except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States.

[(3) The amount of reimbursement waived under paragraph (2) may not exceed 50 percent of the per-person reimbursement amount otherwise required to be paid by a foreign country under such paragraph, except in the case of not more than 20 persons receiving instruction at the Air Force Academy under this section at any one time.]

\* \* \* \* \*

**§ 9353. Cadets: degree and commission on graduation**

(a) \* \* \*

[(b) Notwithstanding any other provision of law, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Air Force under section 531 of this title.]

*(b) A cadet who completes the prescribed course of instruction, is qualified for an original appointment in a regular component under section 532 of this title, and meets such other criteria for appointment as a commissioned officer in the Air Force as may be prescribed by the Secretary of the Air Force shall, upon graduation, be appointed a second lieutenant in the Regular Air Force under section 531 of this title, unless appointed under that section in a regular component of one of the other armed forces in accordance with section 541 of this title.*

\* \* \* \* \*

**PART IV—SERVICE, SUPPLY, AND  
PROCUREMENT**

\* \* \* \* \*

**CHAPTER 949—REAL PROPERTY**

\* \* \* \* \*

**§ 9783. Johnston Atoll: reimbursement for support provided to civil air carriers**

(a) \* \* \*

\* \* \* \* \*

(e) DEFINITIONS.—In this section:

(1) The term “civil air carrier” means an air carrier (as defined in section **[40101(a)(2)] 40102(a)(2)** of title 49) that is issued a certificate of public convenience and necessity under section 41102 of such title.

\* \* \* \* \*

**Subtitle E—Reserve Components**

**PART I—ORGANIZATION AND ADMINISTRATION**

\* \* \* \* \*

**CHAPTER 1013—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS**

\* \* \* \* \*

**§ 10541. National Guard and reserve component equipment: annual report to Congress**

[(a) The Secretary of Defense shall submit to the Congress each year, not later than February 15, a written report concerning the equipment of the National Guard and the reserve components of the armed forces for each of the three succeeding fiscal years.

[(b) Each report under this section shall include the following:

[(1) Recommendations as to the type and quantity of each major item of equipment which should be in the inventory of the Selected Reserve of the Ready Reserve of each reserve component of the armed forces.

[(2) A statement of the quantity and average age of each type of major item of equipment which is expected to be physically available in the inventory of the Selected Reserve of the Ready Reserve of each reserve component as of the beginning of each fiscal year covered by the report.

[(3) A statement of the quantity and cost of each type of major item of equipment which is expected to be procured for the Selective Reserve of the Ready Reserve of each reserve component from commercial sources or to be transferred to each such Selected Reserve from the active-duty components of the armed forces.

[(4) A statement of the quantity of each type of major item of equipment which is expected to be retired, decommissioned, transferred, or otherwise removed from the physical inventory of the Selected Reserve of the Ready Reserve of each reserve component and the plans for replacement of that equipment.

[(5) A listing of each major item of equipment required by the Selected Reserve of the Ready Reserve of each reserve component indicating—

[(A) the full war-time requirement of that component for that item, shown in accordance with deployment schedules and requirements over successive 30-day periods following mobilization;

[(B) the number of each such item in the inventory of the component;

[(C) a separate listing of each such item in the inventory that is a deployable item and is not the most desired item;

[(D) the number of each such item projected to be in the inventory at the end of the third succeeding fiscal year; and

[(E) the number of nondeployable items in the inventory as a substitute for a required major item of equipment.

[(6) A narrative explanation of the plan of the Secretary concerned to provide equipment needed to fill the war-time requirement for each major item of equipment to all units of the Selected Reserve, including an explanation of the plan to equip units of the Selected Reserve that are short of major items of equipment at the outset of war.

[(7) For each item of major equipment reported under paragraph (3) in a report for one of the three previous years under this section as an item expected to be procured for the Selected Reserve or to be transferred to the Selected Reserve, the quantity of such equipment actually procured for or transferred to the Selected Reserve.

[(8) A statement of the current status of the compatibility of equipment between the Army reserve components and active forces of the Army, the effect of that level of incompatibility on combat effectiveness, and a plan to achieve full equipment compatibility.

[(c) Each report under this section shall be expressed in the same format and with the same level of detail as the information presented in the annual Five Year Defense Program Procurement Annex prepared by the Department of Defense.]

(a) *REQUIREMENT.*—*The Secretary of Defense shall submit to Congress each year, not later than March 1, a written report concerning the equipment of the National Guard and the reserve components of the armed forces. Each such report shall cover the current fiscal year and the three succeeding years.*

(b) *MATTERS TO BE INCLUDED IN REPORT.*—*Each report under this section shall include the following (shown in the aggregate and separately for each reserve component):*

(1) *A list of major items of equipment required and on-hand in the inventories of the reserve components.*

(2) *A list of major items of equipment that are expected to be procured from commercial sources or transferred from the active component to the reserve components.*

(3) *A statement of major items of equipment in the inventories of the reserve components that are substitutes for a required major item of equipment.*

(4) *A narrative explanation of the plan of the Secretary concerned to equip each reserve component, including an explanation of the plan to equip units of the reserve components that*

are short major items of equipment at the outset of war or a contingency operation.

(5) A narrative discussing the current status of the compatibility and interoperability of equipment between the reserve components and the active forces and the effect of that level of compatibility or interoperability on combat effectiveness, together with a plan to achieve full equipment compatibility and interoperability.

(6) A narrative discussing modernization shortfalls and maintenance backlogs within the reserve components and the effect of those shortfalls on combat effectiveness.

(7) A narrative discussing the overall age and condition of equipment currently in the inventory of the reserve components.

(c) **MAJOR ITEMS OF EQUIPMENT.**—In this section, the term “major items of equipment” includes ships, aircraft, combat vehicles, and key combat support equipment.

(d) **FORMAT AND LEVEL OF DETAIL.**—Each report under this section shall be expressed in the same format and with the same level of detail as the information presented in the Future-Years Defense Program Procurement Annex prepared by the Department of Defense.

\* \* \* \* \*

**PART II—PERSONNEL GENERALLY**

\* \* \* \* \*

**CHAPTER 1201—AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE**

\* \* \* \* \*

**§ 12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard**

[(a) The number of reserve officers of the Army, Air Force, and Marine Corps who may be on active duty or full-time National Guard duty in each of the grades of major, lieutenant colonel, and colonel, and of the Navy who may be on active duty in each of the grades of lieutenant commander, commander, and captain, as of the end of any fiscal year for duty described in subclauses (B) and (C) of section 523(b)(1) of this title or full-time National Guard duty (other than for training) under section 502(f) of title 32 may not exceed the number for that grade and armed force in the following table:

Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander .....	3,316	1,071	948	140
Lieutenant Colonel or Commander .....	1,759	520	852	90
Colonel or Navy Captain .....	529	188	317	30

[(b) Whenever the number of officers serving in any grade is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

[(c) Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section.

[(d) Upon increasing under subsection (c)(2) of section 115 of this title the end strength that is authorized under subsection (a)(1)(B) of that section for a fiscal year for active-duty personnel and full-time National Guard duty personnel of an armed force who are to be paid from funds appropriated for reserve personnel, the Secretary of Defense may increase for that fiscal year the limitation that is set forth in subsection (a) of this section for the number of officers of that armed force serving in any grade if the Secretary determines that such action is in the national interest. The percent of the increase may not exceed the percent by which the Secretary increases that end strength.]

(a) *LIMITATIONS.—(1) Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:*

<i>Total number of members of a reserve component serving on full-time reserve component duty:</i>	<i>Number of officers of that reserve component who may be serving in the grade of:</i>		
	<i>Major</i>	<i>Lieutenant Colonel</i>	<i>Colonel</i>
<i>Army Reserve:</i>			
<i>10,000</i> .....	<i>1,390</i>	<i>740</i>	<i>230</i>
<i>11,000</i> .....	<i>1,529</i>	<i>803</i>	<i>242</i>
<i>12,000</i> .....	<i>1,668</i>	<i>864</i>	<i>252</i>
<i>13,000</i> .....	<i>1,804</i>	<i>924</i>	<i>262</i>
<i>14,000</i> .....	<i>1,940</i>	<i>984</i>	<i>272</i>
<i>15,000</i> .....	<i>2,075</i>	<i>1,044</i>	<i>282</i>
<i>16,000</i> .....	<i>2,210</i>	<i>1,104</i>	<i>291</i>
<i>17,000</i> .....	<i>2,345</i>	<i>1,164</i>	<i>300</i>
<i>18,000</i> .....	<i>2,479</i>	<i>1,223</i>	<i>309</i>
<i>19,000</i> .....	<i>2,613</i>	<i>1,282</i>	<i>318</i>
<i>20,000</i> .....	<i>2,747</i>	<i>1,341</i>	<i>327</i>
<i>21,000</i> .....	<i>2,877</i>	<i>1,400</i>	<i>336</i>
<i>Army National Guard:</i>			
<i>20,000</i> .....	<i>1,500</i>	<i>850</i>	<i>325</i>
<i>22,000</i> .....	<i>1,650</i>	<i>930</i>	<i>350</i>
<i>24,000</i> .....	<i>1,790</i>	<i>1,010</i>	<i>370</i>
<i>26,000</i> .....	<i>1,930</i>	<i>1,085</i>	<i>385</i>
<i>28,000</i> .....	<i>2,070</i>	<i>1,160</i>	<i>400</i>
<i>30,000</i> .....	<i>2,200</i>	<i>1,235</i>	<i>405</i>
<i>32,000</i> .....	<i>2,330</i>	<i>1,305</i>	<i>408</i>

<i>Total number of members of a reserve component serving on full-time re- serve component duty:</i>	<i>Number of officers of that reserve component who may be serving in the grade of:</i>		
	<i>Major</i>	<i>Lieutenant Colonel</i>	<i>Colonel</i>
34,000 .....	2,450	1,375	411
36,000 .....	2,570	1,445	411
38,000 .....	2,670	1,515	411
40,000 .....	2,770	1,580	411
42,000 .....	2,837	1,644	411
<i>Marine Corps Reserve:</i>			
1,100 .....	106	56	20
1,200 .....	110	60	21
1,300 .....	114	63	22
1,400 .....	118	66	23
1,500 .....	121	69	24
1,600 .....	124	72	25
1,700 .....	127	75	26
1,800 .....	130	78	27
1,900 .....	133	81	28
2,000 .....	136	84	29
2,100 .....	139	87	30
2,200 .....	141	90	31
2,300 .....	143	92	32
2,400 .....	145	94	33
2,500 .....	147	96	34
2,600 .....	149	98	35
<i>Air Force Reserve:</i>			
500 .....	83	85	50
1,000 .....	155	165	95
1,500 .....	220	240	135
2,000 .....	285	310	170
2,500 .....	350	369	203
3,000 .....	413	420	220
3,500 .....	473	464	230
4,000 .....	530	500	240
4,500 .....	585	529	247
5,000 .....	638	550	254
5,500 .....	688	565	261
6,000 .....	735	575	268
7,000 .....	770	595	280
8,000 .....	805	615	290
10,000 .....	835	635	300
<i>Air National Guard:</i>			
5,000 .....	333	335	251
6,000 .....	403	394	260
7,000 .....	472	453	269
8,000 .....	539	512	278
9,000 .....	606	571	287
10,000 .....	673	630	296
11,000 .....	740	688	305
12,000 .....	807	742	314
13,000 .....	873	795	323



Total number of members of a reserve component serving on full-time reserve component duty:	Number of officers of that reserve component who may be serving in the grade of:		
	Major	Lieutenant Colonel	Colonel
14,000 .....	939	848	332
15,000 .....	1,005	898	341
16,000 .....	1,067	948	350
17,000 .....	1,126	998	359
18,000 .....	1,185	1,048	368
19,000 .....	1,235	1,098	377
20,000 .....	1,283	1,148	380.

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

Total number of members of Naval Reserve serving on full-time reserve component duty	Number of officers who may be serving in the grade of:		
	Lieutenant commander	Commander	Captain
10,000 .....	807	447	141
11,000 .....	867	467	153
12,000 .....	924	485	163
13,000 .....	980	503	173
14,000 .....	1,035	521	183
15,000 .....	1,088	538	193
16,000 .....	1,142	555	203
17,000 .....	1,195	565	213
18,000 .....	1,246	575	223
19,000 .....	1,291	585	233
20,000 .....	1,334	595	242
21,000 .....	1,364	603	250
22,000 .....	1,384	610	258
23,000 .....	1,400	615	265
24,000 .....	1,410	620	270.

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

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

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

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

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

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

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

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

**§ 12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard**

[(a) The number of enlisted members in pay grades E–8 and E–9 who may be on active duty (other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not exceed the number for that grade and armed force in the following table:

Grade	Army	Navy	Air Force	Marine Corps
E–9 .....	764	202	502	20
E–8 .....	2,821	429	1,117	94

[(b) Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E–8.

[(c) Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not

sooner ended, end in the manner specified in section 527 for a suspension under that section.

[(d) Upon increasing under subsection (c)(2) of section 115 of this title the end strength that is authorized under subsection (a)(1)(B) of that section for a fiscal year for active-duty personnel and full-time National Guard duty personnel of an armed force who are to be paid from funds appropriated for reserve personnel, the Secretary of Defense may increase for that fiscal year the limitation that is set forth in subsection (a) of this section for the number of enlisted members of that armed force serving in any grade if the Secretary determines that such action is in the national interest. The percent of the increase may not exceed the percent by which the Secretary increases that end strength.]

(a) *LIMITATIONS.—Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members in each of pay grades of E-8 and E-9 who may be serving on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:*

<i>Total number of members of a reserve component serving on full-time reserve component duty:</i>	<i>Number of members of that reserve component who may be serving in the grade of:</i>	
	<i>E-8</i>	<i>E-9</i>
<i>Army Reserve:</i>		
10,000 .....	1,052	154
11,000 .....	1,126	168
12,000 .....	1,195	180
13,000 .....	1,261	191
14,000 .....	1,327	202
15,000 .....	1,391	213
16,000 .....	1,455	224
17,000 .....	1,519	235
18,000 .....	1,583	246
19,000 .....	1,647	257
20,000 .....	1,711	268
21,000 .....	1,775	278
<i>Army National Guard:</i>		
20,000 .....	1,650	550
22,000 .....	1,775	615
24,000 .....	1,900	645
26,000 .....	1,945	675
28,000 .....	1,945	705
30,000 .....	1,945	725
32,000 .....	1,945	730
34,000 .....	1,945	735
36,000 .....	1,945	738
38,000 .....	1,945	741
40,000 .....	1,945	743

<i>Total number of members of a reserve component serving on full-time reserve component duty:</i>	<i>Number of members of that reserve component who may be serving in the grade of:</i>	
	<i>E-8</i>	<i>E-9</i>
42,000 .....	1,945	743
<i>Naval Reserve:</i>		
10,000 .....	340	143
11,000 .....	364	156
12,000 .....	386	169
13,000 .....	407	182
14,000 .....	423	195
15,000 .....	435	208
16,000 .....	447	221
17,000 .....	459	234
18,000 .....	471	247
19,000 .....	483	260
20,000 .....	495	273
21,000 .....	507	286
22,000 .....	519	299
23,000 .....	531	312
24,000 .....	540	325
<i>Marine Corps Reserve:</i>		
1,100 .....	50	11
1,200 .....	55	12
1,300 .....	60	13
1,400 .....	65	14
1,500 .....	70	15
1,600 .....	75	16
1,700 .....	80	17
1,800 .....	85	18
1,900 .....	89	19
2,000 .....	93	20
2,100 .....	96	21
2,200 .....	99	22
2,300 .....	101	23
2,400 .....	103	24
2,500 .....	105	25
2,600 .....	107	26
<i>Air Force Reserve:</i>		
500 .....	75	40
1,000 .....	145	75
1,500 .....	208	105
2,000 .....	270	130
2,500 .....	325	150
3,000 .....	375	170
3,500 .....	420	190
4,000 .....	460	210
4,500 .....	495	230
5,000 .....	530	250
5,500 .....	565	270
6,000 .....	600	290
7,000 .....	670	330

<i>Total number of members of a reserve component serving on full-time reserve component duty:</i>	<i>Number of members of that reserve component who may be serving in the grade of:</i>	
	<i>E-8</i>	<i>E-9</i>
8,000 .....	740	370
10,000 .....	800	400
<i>Air National Guard</i>		
5,000 .....	1,020	405
6,000 .....	1,070	435
7,000 .....	1,120	465
8,000 .....	1,170	490
9,000 .....	1,220	510
10,000 .....	1,270	530
11,000 .....	1,320	550
12,000 .....	1,370	570
13,000 .....	1,420	589
14,000 .....	1,470	608
15,000 .....	1,520	626
16,000 .....	1,570	644
17,000 .....	1,620	661
18,000 .....	1,670	678
19,000 .....	1,720	695
20,000 .....	1,770	712.

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

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

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

(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on

*Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.*

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

\* \* \* \* \*

**CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS**

\* \* \* \* \*

**§ 12205. Commissioned officers: appointment; educational requirement**

(a) \* \* \*

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) \* \* \*

\* \* \* \* \*

*(4) The appointment to a grade in the Army Reserve of a person whose original appointment as an officer in the Army Reserve was through the Officer Candidate School program and who immediately before that original appointment was an enlisted member on active duty.*

**[(4)]** *(5) The appointment to or recognition in a higher grade of any person who was appointed to, or federally recognized in, the grade of captain or, in the case of the Navy, lieutenant before October 1, 1995.*

**[(5)]** *(6) Recognition in the grade of captain or major in the Alaska Army National Guard of a person who resides permanently at a location in Alaska that is more than 50 miles from each of the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road and who is serving in a Scout unit or a Scout supporting unit.*

\* \* \* \* \*

**CHAPTER 1209—ACTIVE DUTY**

\* \* \* \* \*

**§ 12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation**

(a) \* \* \*

\* \* \* \* \*

*(c) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the*

*termination of the suspension or within 90 days of the date of such termination.*

\* \* \* \* \*

**CHAPTER 1213—SPECIAL APPOINTMENTS,  
ASSIGNMENTS, DETAILS, AND DUTIES**

\* \* \* \* \*

**§ 12503. Ready Reserve: funeral honors duty**

(a) ORDER TO DUTY.—A member of the Ready Reserve may be ordered to funeral honors duty, with the consent of the member, in preparation for or to perform funeral honors functions at the funeral of a veteran as defined in section 1491 of this title. *Performance of funeral honors duty by a Reserve not on active duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.*

\* \* \* \* \*

**CHAPTER 1214—READY RESERVE MOBILIZATION  
INCOME INSURANCE**

\* \* \* \* \*

**§ 12533. Termination of program**

(a) \* \* \*

(b) TERMINATION OF NEW ENROLLMENTS.—The Secretary may not enroll a member of the Ready Reserve for coverage under the insurance program after [the date of the enactment of this section.] *November 18, 1997.*

(c) TERMINATION OF COVERAGE.—(1) The enrollment under the insurance program of insured members other than insured members described in paragraph (2) is terminated as of [the date of the enactment of this section.] *November 18, 1997.* The enrollment of an insured member described in paragraph (2) is terminated as of the date of the termination of the period of covered service of that member described in that paragraph.

(2) An insured member described in this paragraph is an insured member who on [the date of the enactment of this section] *November 18, 1997,* is serving on covered service for a period of service, or has been issued an order directing the performance of covered service, that satisfies or would satisfy the entitlement-to-benefits provisions of this chapter.

(d) TERMINATION OF PAYMENT OF BENEFITS.—The Secretary may not make any benefit payment under the insurance program after [the date of the enactment of this section] *November 18, 1997,* other than to an insured member who on that date (1) is serving on an order to covered service, (2) has been issued an order directing performance of covered service, or (3) has served on covered service before that date for which benefits under the program have not been paid to the member.

\* \* \* \* \*

**CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE**

\* \* \* \* \*

**§ 12731. Age and service requirements**

(a) \* \* \*

\* \* \* \* \*

(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on October 5, 1994, and ending on December 31, **[2001]** *2002*, the provisions of subsection (a)(3) shall be applied by substituting “the last six years” for “the last eight years”.

**§ 12731a. Temporary special retirement qualification authority**

(a) \* \* \*

(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on December 31, **[2001]** *2002*.

\* \* \* \* \*

**§ 12733. Computation of retired pay: computation of years of service**

For the purpose of computing the retired pay of a person under this chapter, the person’s years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

(1) \* \* \*

\* \* \* \* \*

(3) One day for each point credited to the person under clause (B), (C), or (D) of section 12732(a)(2) of this title, but not more than—

(A) \* \* \*

(B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes **[the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001;]** *October 30, 2000*; and

(C) 90 days in the year of service that includes **[the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001]** *October 30, 2000*, and in any subsequent year of service.

\* \* \* \* \*

**§ 12741. Retirement from active reserve service performed after regular retirement**

(a) ELECTION OF RESERVE RETIRED PAY.—A person who, after becoming entitled to retired or retainer pay under chapter 65, 367, 571, or 867 of this title, serves in an active status in a reserve component is entitled to retired pay under this chapter if—

(1) \* \* \*



(2) the person elects under this section to [received] *receive* retired pay under this chapter; and

\* \* \* \* \*

**PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST**

\* \* \* \* \*

**CHAPTER 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION**

\* \* \* \* \*

**§ 14502. Special selection boards: correction of errors**

(a) OFFICERS NOT CONSIDERED BECAUSE OF ADMINISTRATIVE ERROR.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion [from in or above the promotion zone] by a mandatory promotion board convened under section 14101(a) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

\* \* \* \* \*

(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration *for selection for promotion from in or above the promotion zone*, the officer or former officer shall be considered to have failed of selection for promotion.

(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—(1) In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion [from in or above the promotion zone under this chapter by a selection board] *by a promotion board convened under section 14101(a) of this title* but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

(A) the action of the selection board that considered the officer or former officer was contrary to law or involved material error of fact or material administrative error; or

(B) the selection board did not have before it for its consideration material information.

\* \* \* \* \*

**PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS**

\* \* \* \* \*

**CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE**

\* \* \* \* \*

**§ 16133. Time limitation for use of entitlement**

(a) \* \* \*

(b)(1) In the case of a person—

(A) \* \* \*

(B) who, on or after the date on which such person became entitled to educational assistance under this chapter ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on December 31, [2001] 2002, by reason of the inactivation of the person's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 10143(a) of this title,

\* \* \* \* \*

**CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM**

\* \* \* \* \*

**§ 16201. Financial assistance: health-care professionals in reserve components**

(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions [specialties critically needed in wartime], the Secretary of each military department may establish and maintain a program to provide financial assistance under this chapter to persons engaged in [training in such specialties] *training that leads to a degree in medicine or dentistry or training in a health professions specialty that is critically needed in wartime*. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in [training in certain health care specialties] *health care education and training* in return for a commitment to subsequent service in the Ready Reserve.

(b) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) *Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—*

(A) is eligible to be appointed as an officer in a reserve component;

(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

(C) signs an agreement that, unless sooner separated, the person will—

(i) complete the educational phase of the program;

(ii) accept a reappointment or redesignation within the person's reserve component, if tendered, based upon the person's health profession, following satisfactory completion of the educational and intern programs; and

(iii) participate in a residency program; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

(2) Under the agreement—

(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (f), for the period or the remainder of the period the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend is provided. In the case of a participant who enters into a subsequent agreement under subsection (c) and successfully completes residency training in a specialty designated by the Secretary of Defense as a specialty critically needed by the military department in wartime, the requirement to serve in the Selected Reserve may be reduced to one year for each year, or part thereof, for which the stipend was provided while enrolled in medical or dental school.

**[(b)] (c) PHYSICIANS AND DENTISTS IN CRITICAL WARTIME SPECIALTIES.**—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) \* \* \*

(B) is eligible for appointment, designation, or assignment as a medical officer or dental officer in the Reserve of the armed force concerned or has been appointed as a medical or dental officer in the Reserve of the armed force concerned; and

\* \* \* \* \*

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection ~~[(e)]~~ (f), for the period or the remainder of the period of the residency program in which the participant enrolls or is enrolled;

\* \* \* \* \*

(D) the participant shall agree to serve, upon successful completion of the program, ~~two years in the Ready Reserve for each year,~~ *one year in the Ready Reserve for each six months*, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

~~[(c)]~~ (d) REGISTERED NURSES IN CRITICAL SPECIALTIES.—(1)  
\* \* \*

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection ~~[(e)]~~ (f), for the period or the remainder of the period of the nursing program in which the participant enrolls or is enrolled;

\* \* \* \* \*

(D) the participant shall agree to serve, upon successful completion of the program, ~~two years in the Ready Reserve for each year,~~ *one year in the Ready Reserve for each six months*, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

~~[(d)]~~ (e) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(1) \* \* \*

\* \* \* \* \*

~~[(e)]~~ (f) AMOUNT OF STIPEND.—The amount of a stipend under an agreement under subsection (b) or (c) shall be—

(1) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve in the Selected Reserve; or

(2) one-half of that rate, if the participant has agreed to serve in the Individual Ready Reserve.

\* \* \* \* \*

**CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS**

\* \* \* \* \*

**§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages**

(a) \* \* \*

\* \* \* \* \*

(d) The authority provided in this section shall apply only in the case of a person first appointed as a commissioned officer before January 1, [2002] 2003.

\* \* \* \* \*

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996**

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

**TITLE I—PROCUREMENT**

\* \* \* \* \*

**Subtitle E—Chemical Demilitarization Program**

\* \* \* \* \*

**SEC. 152. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.**

(a) \* \* \*

(b) INITIATION OF DEMILITARIZATION OPERATIONS.—The Secretary of Defense may not initiate destruction of the chemical munitions stockpile stored at a site until the following support measures are in place *for that site*:

(1) \* \* \*

\* \* \* \* \*

(4) *Emergency preparedness and response capabilities have been established at the site and in the surrounding communities to respond to emergencies involving risks to public health or safety that are identified by the Secretary of Defense as being risks resulting from the storage or destruction of lethal chemical agents and munitions at the site.*

(5) *The Under Secretary of Defense for Acquisition, Technology, and Logistics recommends initiation of destruction at the site after considering the recommendation by the board established by subsection (g).*

\* \* \* \* \*

(g) OVERSIGHT BOARDS.—(1) *The Under Secretary of Defense for Acquisition, Technology, and Logistics shall convene, for each site at which the chemical munitions stockpile is stored, an independent oversight board composed of—*

(A) *the Secretary of the Army;*

(B) *the Director of the Federal Emergency Management Agency;*

(C) *the Administrator of the Environmental Protection Agency;*

(D) the President of the National Academy of Sciences;  
 (E) the Governor of the State in which the site is located; and  
 (F) one individual designated by the Under Secretary from a list of three local representatives of the area in which the site is located, prepared jointly by the Member of the House of Representatives who represents the Congressional District in which the site is located and the Senators representing the State in which the site is located.

(2) Not later than six months after each such board is convened, the board shall make a recommendation to the Under Secretary whether the destruction of the chemical munitions stockpile should be initiated at the site.

(3) The Under Secretary may not recommend initiation of destruction of the chemical munitions stockpile at a site after considering a negative recommendation of the board until 90 days after the Under Secretary provides notice to Congress of the intent to recommend initiation of destruction.

\* \* \* \* \*

## TITLE V—MILITARY PERSONNEL POLICY

\* \* \* \* \*

### Subtitle E—Miscellaneous Reviews, Studies, and Reports

\* \* \* \* \*

#### [SEC. 552. COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY END STRENGTH ALLOCATIONS.

[(a) IN GENERAL.—During fiscal years 1996 through 2001, the Comptroller General of the United States shall analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that is conducted before 2002. The Comptroller General's analysis shall consider whether the proposed active component end strengths and planned allocation of forces for that period will be sufficient to implement the national military strategy. In monitoring those plans, the Comptroller General shall determine the extent to which the Army will be able during that period—

[(1) to man fully the combat force based on the projected active component Army end strength for each of fiscal years 1996 through 2001;

[(2) to meet the support requirements for the force and strategy specified in the report of the Bottom-Up Review, including requirements for operations other than war; and

[(3) to streamline further Army infrastructure in order to eliminate duplication and inefficiencies and replace active duty

personnel in overhead positions, whenever practicable, with civilian or reserve personnel.

[(b) ACCESS TO DOCUMENTS, ETC.—The Secretary of the Army shall ensure that the Comptroller General is provided access, on a timely basis and in accordance with the needs of the Comptroller General, to all analyses, models, memoranda, reports, and other documents prepared or used in connection with the requirements process of the Army known as Total Army Analysis 2003 and any subsequent similar requirements process of the Army that is conducted before 2002.

[(c) ANNUAL REPORT.—Not later than March 1 of each year through 2002, the Comptroller General shall submit to Congress a report on the findings and conclusions of the Comptroller General under this section.]

\* \* \* \* \*

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**SECTION 216 OF THE NATIONAL DEFENSE  
AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993**

**SEC. 216. MANAGEMENT OF NAVY MINE COUNTERMEASURES PROGRAMS.**

(a) RESPONSIBILITY.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition and Technology shall have the primary responsibility for developing and testing naval mine countermeasures systems during fiscal years 1996 through [2003] 2008.

\* \* \* \* \*

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**SECTION 3701 OF TITLE 31, UNITED STATES CODE**

**§ 3701. Definitions and application**

(a) \* \* \*

(b)(1) In subchapter II of this chapter and subsection (a)(8) of this section, the term “claim” or “debt” means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

(A) \* \* \*

(B) expenditures of nonappropriated funds, *including actual and administrative costs related to shoplifting, theft detection, and theft prevention,*

\* \* \* \* \*

---

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL  
YEAR 2000**

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF  
DEFENSE AUTHORIZATIONS**

\* \* \* \* \*

**TITLE III—OPERATION AND  
MAINTENANCE**

\* \* \* \* \*

**Subtitle E—Performance of Functions by  
Private-Sector Sources**

\* \* \* \* \*

**SEC. 343. REPORT ON USE OF EMPLOYEES OF NON-FEDERAL ENTITIES TO PROVIDE SERVICES TO DEPARTMENT OF DEFENSE.**

[(a) REPORT REQUIRED.—Not later than March 1, 2001, the Secretary of Defense shall submit to Congress a report describing the use during the previous fiscal year of non-Federal entities to provide services to the Department of Defense.]

(a) *REPORTING REQUIREMENT FOR DEPARTMENT OF THE ARMY.—*  
(1) *Not later than March 1 of each fiscal year, the Secretary of the Army shall submit to Congress a report describing the use during the previous fiscal year of non-Federal entities to provide services to the Department of the Army.*

(2) *The data collection required to prepare the report is deemed to be in compliance with the requirements of chapter 35 of title 44, United States Code, commonly known as the Paperwork Reduction Act.*

(3) *The report required by this section is needed to comply with sections 115a and 129a of title 10, United States Code, and is not a procurement action.*

(b) **CONTENT OF REPORT.**—To the extent practicable using information available from existing data collection and reporting systems available to the [Department of Defense] *Department of the Army* and the non-Federal entities referred to in subsection (a), the report shall—

(1) \* \* \*

\* \* \* \* \*

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



(d) GAO EVALUATION.—Not later than 60 days after the Secretary submits to Congress the report required under subsection (a) for a fiscal year, the Comptroller General shall submit to Congress an evaluation of the report.

\* \* \* \* \*

**TITLE V—MILITARY PERSONNEL  
POLICY**

\* \* \* \* \*

**Subtitle D—Service Academies**

**SEC. 531. STRENGTH LIMITATIONS AT THE SERVICE ACADEMIES.**

(a) \* \* \*

(b) REENACTMENT OF LIMITATION; AUTHORIZED VARIANCE.—(1)  
\* \* \*

(2) Section 6954 of such title is amended—

(A) *in subsection (a)*, by striking the matter preceding paragraph (1) and inserting the following:

(i) \* \* \*

\* \* \* \* \*

**Subtitle E—Education and Training**

\* \* \* \* \*

**SEC. 549. RECODIFICATION AND CONSOLIDATION OF STATUTES DENYING FEDERAL GRANTS AND CONTRACTS BY CERTAIN DEPARTMENTS AND AGENCIES TO INSTITUTIONS OF HIGHER EDUCATION THAT PROHIBIT SENIOR ROTC UNITS OR MILITARY RECRUITING ON CAMPUS.**

(a) RECODIFICATION AND CONSOLIDATION FOR LIMITATIONS ON FEDERAL GRANTS AND CONTRACTS.—(1) \* \* \*

(2) The item relating to section 983 in the table of sections at the beginning of [such chapter] *chapter 49 of title 10, United States Code*, is amended to read as follows:

\* \* \* \* \*

**Subtitle I—Matters Relating to Missing  
Persons**

\* \* \* \* \*

**SEC. 576. RECOVERY AND IDENTIFICATION OF REMAINS OF CERTAIN WORLD WAR II SERVICEMEN LOST IN PACIFIC THEATER OF OPERATIONS.**

(a) RECOVERY OF REMAINS.—(1) \* \* \*

\* \* \* \* \*

(3) Not later than September 30, 2000, the Secretary shall submit to Congress a report setting forth the efforts made to accom-

plish the objectives specified in paragraph (1). The Secretary shall include in the report a statement of the backlog of cases at the Central Identification Laboratory, Hawaii, shown by conflict, and the status of the joint manning plan required by section 566(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2029).

\* \* \* \* \*

### Subtitle J—Other Matters

**SEC. 577. AUTHORITY FOR SPECIAL COURTS-MARTIAL TO IMPOSE SENTENCES TO CONFINEMENT AND FORFEITURES OF PAY OF UP TO ONE YEAR.**

(a) MAXIMUM PUNISHMENTS THAT MAY BE ADJUDGED BY A SPECIAL COURT-MARTIAL.—Section 819 of title 10, United States Code (article 19 of the Uniform Code of Military Justice), is amended—

(1) \* \* \*

(2) in the third sentence, by inserting after “A [bad conduct *bad-conduct* discharge” the following: “, confinement for more than six months, or forfeiture of pay for more than six months”.

\* \* \* \* \*

**SEC. 591. DEFENSE TASK FORCE ON DOMESTIC VIOLENCE.**

(a) \* \* \*

\* \* \* \* \*

(h) ADMINISTRATIVE SUPPORT.—(1) Each member of the task force *who is a member of the Armed Forces or civilian officer or employee of the United States* shall serve without compensation (other than the compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be), but 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 the member’s home or regular places of business in the performance of services for the task force]. *Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.*

\* \* \* \* \*

(j) TERMINATION.—The task force shall terminate [three years after the date of the enactment of this Act] *on April 24, 2003.*

\* \* \* \* \*

## TITLE VII—HEALTH CARE PROVISIONS

\* \* \* \* \*

### Subtitle A—Health Care Services

#### SEC. 701. PHARMACY BENEFITS PROGRAM.

(a) \* \* \*

\* \* \* \* \*

[(d) STUDY FOR DESIGN OF PHARMACY BENEFIT FOR CERTAIN COVERED BENEFICIARIES.—(1) Not later than April 15, 2001, the Secretary of Defense shall prepare and submit to Congress—

[(A) a study on a design for a comprehensive pharmacy benefit for covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to benefits under part A, and enrolled under part B, of title XVIII of the Social Security Act; and

[(B) an estimate of the costs of implementing and operating such design.

[(2) The design described in paragraph (1)(A) shall incorporate the elements of the pharmacy benefits program required to be established under section 1074g of title 10, United States Code (as added by subsection (a)).]

\* \* \* \* \*

### TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

\* \* \* \* \*

### Subtitle B—Other Matters

#### SEC. 811. MENTOR-PROTEGE PROGRAM IMPROVEMENTS.

(a) \* \* \*

\* \* \* \* \*

(d) REPORTS AND REVIEWS.—(1) \* \* \*

\* \* \* \* \*

(3)(A) \* \* \*

(B) The study shall include the following:

(i) \* \* \*

\* \* \* \* \*

(v) A review of the relationship between the results of the [Mentor-Protegee] *Mentor-Protege* Program and the objectives established in section 2323 of title 10, United States Code.

\* \* \* \* \*

### TITLE X—GENERAL PROVISIONS

\* \* \* \* \*

**Subtitle F—Memorial Objects and Commemorations**

\* \* \* \* \*

**SEC. 1052. PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR.**

(a) \* \* \*

(b) CHANGE OF NAME.—(1) Subsection (c) of such section, as amended by section 1067 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2134), is amended by striking “[The Department] *the Department of Defense Korean War Commemoration*” and inserting “The United States of America Korean War Commemoration”.

\* \* \* \* \*

**SEC. 1053. COMMEMORATION OF THE VICTORY OF FREEDOM IN THE COLD WAR.**

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

(1) \* \* \*

\* \* \* \* \*

(5) Tens of thousands of United States soldiers, sailors, airmen, and Marines paid the ultimate price during the Cold War in order to preserve the freedoms and liberties enjoyed in democratic countries.

\* \* \* \* \*

**TITLE XII—MATTERS RELATING TO OTHER NATIONS**

\* \* \* \* \*

**Subtitle A—Matters Relating to the People’s Republic of China**

\* \* \* \* \*

**SEC. 1202. ANNUAL REPORT ON MILITARY POWER OF THE PEOPLE’S REPUBLIC OF CHINA.**

(a) \* \* \*

\* \* \* \* \*

(d) REPORT ON SALES AND TRANSFERS FROM STATES OF THE FORMER SOVIET UNION TO CHINA.—(1) The report to be submitted under this section not later than March 1, 2002, shall include in a separate section a report describing the sales and transfer of military hardware, expertise, and technology from states of the former Soviet Union to the People’s Republic of China. The report shall set forth the history of such sales and transfers since 1990, forecast possible future sales and transfers, and address the implications of those sales and transfers for the security of the United States and its friends and allies in Asia.

(2) *The report shall include analysis and forecasts of the following matters related to military cooperation between states of the former Soviet Union and the People's Republic of China:*

(A) *The policy of each of those states with respect to arms sales to, and military cooperation with, the People's Republic of China.*

(B) *Any laws or regulations of those states that could prohibit or limit such sales or cooperation.*

(C) *The extent in each of those states of government knowledge, cooperation, or condoning of sales or transfers of military hardware, expertise, or technology to the People's Republic of China.*

(D) *An itemization of sales or transfers of military hardware, expertise, or technology from any of those states to the People's Republic of China that have taken place since 1990, with a particular focus on command, control, communications, and intelligence systems.*

(E) *A description of any sale or transfer of military hardware, expertise, or technology from any of those states to the People's Republic of China that is currently under negotiation or contemplation through the end of 2005.*

(F) *Identification of Chinese defense industries in which technicians from states of the former Soviet Union are working and of defense industries of those states in which Chinese technicians are working and a description in each case of the extent and the nature of the work performed by such technicians.*

(G) *The extent of assistance by any of those states to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of advanced conventional weapons, and programs for development of unconventional weapons.*

(H) *The extent of assistance by any of those states to information warfare or electronic warfare programs of China.*

(I) *The extent of assistance by any of those states to manned and unmanned space operations of China.*

(J) *The extent to which arms sales by any of those states to the People's Republic of China are a source of funds for military research and development or procurement programs in the selling state.*

(3) *The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2)—*

(A) *an assessment of the military effects of such sales or transfers to entities in the People's Republic of China;*

(B) *an assessment of the ability of the People's Liberation Army to assimilate such sales or transfers, mass produce new equipment, or develop doctrine for use; and*

(C) *the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.*

\* \* \* \* \*

## Subtitle D—Other Matters

\* \* \* \* \*

### SEC. 1232. LIMITATION ON DEPLOYMENT OF ARMED FORCES IN HAITI DURING FISCAL YEAR 2000 AND CONGRESSIONAL NOTICE OF DEPLOYMENTS TO HAITI.

(a) \* \* \*

[(b) REPORT.—Whenever there is a deployment of United States Armed Forces to Haiti after May 31, 2000, the President shall, not later than 96 hours after such deployment begins, transmit to Congress a written report regarding the deployment. In any such report, the President shall specify (1) the purpose of the deployment, and (2) the date on which the deployment is expected to end.]

\* \* \* \* \*

## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

\* \* \* \* \*

### SEC. 1305. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION.

No fiscal year 2000 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs after the date of the enactment of this Act, may be obligated or expended for planning, design, or construction of a chemical weapons destruction facility in Russia *until the Secretary of Defense submits to Congress a certification that there has been—*

- (1) *full and accurate disclosure by Russia of the size of its existing chemical weapons stockpile;*
- (2) *a demonstrated annual commitment by Russia to allocate at least \$25,000,000 to chemical weapons elimination;*
- (3) *development by Russia of a practical plan for destroying its stockpile of nerve agents;*
- (4) *enactment of a law by Russia that provides for the elimination of all nerve agents at a single site; and*
- (5) *an agreement by Russia to destroy its chemical weapons production facilities at Volgograd and Novocheboksark.*

\* \* \* \* \*

## TITLE XIV—PROLIFERATION AND EXPORT CONTROLS

\* \* \* \* \*

### SEC. 1402. ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN.

(a) \* \* \*

\* \* \* \* \*

(f) DEFINITION.—As used in this section, the term “countries and entities of concern” means—

(1) \* \* \*

(2) any country that—

(A) has detonated a nuclear explosive device (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. [3201 note] 6305(4))); and

\* \* \* \* \*

**DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS**

\* \* \* \* \*

**TITLE XXIX—COMMISSION ON NATIONAL MILITARY MUSEUM**

\* \* \* \* \*

**SEC. 2902. DUTIES OF COMMISSION.**

(a) \* \* \*

\* \* \* \* \*

(d) REQUIREMENTS FOR LOCATION ON NAVY ANNEX PROPERTY.—In the case of a recommendation under subsection (c)(1) to authorize construction of a national military museum on the Navy Annex property authorized for reservation for such purpose by section [2871(b)] 2881(b), the design of the national military museum on such property shall be subject to the following requirements:

(1) \* \* \*

\* \* \* \* \*

**SECTION 1407 OF THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978**

SCHOOL SYSTEM FOR DEPENDENTS IN OVERSEAS AREAS

SEC. 1407. (a) \* \* \*

\* \* \* \* \*

(c) CONTINUATION OF ENROLLMENT FOR CERTAIN DEPENDENTS OF MEMBERS OF THE ARMED FORCES INVOLUNTARILY SEPARATED.—(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b)) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education

of that dependent in the same manner as if the member were still on active duty.

\* \* \* \* \*

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

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

**[(d)]** (e)(1)(A) Chapter 7 of title 37, United States Code, relating to allowances authorized for members of the uniformed services, is amended by adding after section 428 the following new section:

(i) \* \* \*

\* \* \* \* \*

**FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001**

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

\* \* \* \* \*

**TITLE V—MILITARY PERSONNEL POLICY**

\* \* \* \* \*

**Subtitle B—Reserve Component Personnel Policy**

\* \* \* \* \*

**SEC. 525. EXTENSION OF INVOLUNTARY CIVIL SERVICE RETIREMENT DATE FOR CERTAIN RESERVE TECHNICIANS.**

(a) \* \* \*

(b) **TRANSITION PROVISION.—**(1) An individual who before the date of the enactment of this Act was involuntarily separated or retired from employment as an Army Reserve or Air Force Reserve technician under section 10218 of title 10, United States Code, and who would not have been so separated if the provisions of [sub-



section (c)] *subsections (a) and (b)* of that section, as amended by subsection (a), had been in effect at the time of such separation may, with the approval of the Secretary concerned, be reinstated to the technician status held by that individual immediately before that separation. The effective date of any such reinstatement is the date the employee resumes technician status.

\* \* \* \* \*

## Subtitle G—Other Matters

\* \* \* \* \*

### SEC. 574. MANAGEMENT AND PER DIEM REQUIREMENTS FOR MEMBERS SUBJECT TO LENGTHY OR NUMEROUS DEPLOYMENTS.

(a) \* \* \*

\* \* \* \* \*

(d) REVIEW OF MANAGEMENT OF DEPLOYMENTS OF INDIVIDUAL MEMBERS.—Not later than March 31, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of section 991 of title 10, United States Code, during fiscal year 2001. The report shall include—

[(1) a discussion of the experience in tracking and recording the deployments of members of the Armed Forces; and

[(2) any recommendations for revision of such section that the Secretary considers appropriate.]

*(1) a discussion of the experience in tracking and recording the deployments of members of the Armed Forces and the payment of the per diem allowance for lengthy or numerous deployments in accordance with section 436 of title 37, United States Code;*

*(2) specific comments regarding the effect of section 991 of title 10, United States Code, and section 436 of title 37, United States Code, on the readiness of the Navy and Marine Corps given the deployment intensive mission of these services; and*

*(3) any recommendations for revision of section 991 of title 10, United States Code, or section 436 of title 37, United States Code, that the Secretary considers appropriate.*

\* \* \* \* \*

## TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

\* \* \* \* \*

### Subtitle A—Pay and Allowances

\* \* \* \* \*

**SEC. 603. REVISED METHOD FOR CALCULATION OF BASIC ALLOWANCE FOR SUBSISTENCE.**

(a) \* \* \*

\* \* \* \* \*

(c) **EARLY TERMINATION OF BAS TRANSITIONAL AUTHORITY.**—Effective [October 1, 2001] *January 1, 2002*, subsections (c) through (f) of section 602 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 37 U.S.C. 402 note) are repealed.

\* \* \* \* \*

**TITLE VII—HEALTH CARE PROVISIONS**

\* \* \* \* \*

**Subtitle C—TRICARE Program****SEC. 721. IMPROVEMENT OF ACCESS TO HEALTH CARE UNDER THE TRICARE PROGRAM.**

(a) **WAIVER OF NONAVAILABILITY STATEMENT OR PREAUTHORIZATION.**—In the case of a covered beneficiary under chapter 55 of title 10, United States Code, who is enrolled in TRICARE Standard, the Secretary of Defense may not require with regard to authorized health care services (other than mental health services) under any [new] contract for the provision of health care services under such chapter that the beneficiary—

(1) \* \* \*

\* \* \* \* \*

[(c) **EXCEPTIONS.**—Subsection (a) shall not apply if—

[(1) the Secretary demonstrates significant costs would be avoided by performing specific procedures at the affected military medical treatment facilities;

[(2) the Secretary determines that a specific procedure must be provided at the affected military medical treatment facility to ensure the proficiency levels of the practitioners at the facility; or

[(3) the lack of nonavailability statement data would significantly interfere with TRICARE contract administration.]

(c) **EXCEPTIONS.**—(1) *Subject to paragraph (2), the Secretary may provide that subsection (a) shall not apply for a period of up to one year if—*

(A) *the Secretary—*

(i) *demonstrates significant costs would be avoided by performing specific procedures at the affected military medical treatment facility or facilities;*

(ii) *determines that a specific procedure must be provided at the affected military medical treatment facility or facilities to ensure the proficiency levels of the practitioners at the facility or facilities; or*

(iii) *determines that the lack of nonavailability statement data would significantly interfere with TRICARE contract administration;*

(B) the Secretary provides notification of the Secretary's intent to make an exception under this subsection to covered beneficiaries who receive care at the military medical treatment facility or facilities that will be affected by the decision to make an exception under this subsection;

(C) the Secretary provides notification to the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to make an exception under this subsection, the reason for making an exception, and the date that a nonavailability statement will be required; and

(D) 60 days have elapsed since the date of the notification described in subparagraph (C).

(2)(A) Except as provided in subparagraph (B), the Secretary may make an exception under this subsection with respect to—

(i) one or more services performed at a military medical treatment facility or facilities; or

(ii) one or more services performed in a TRICARE region.

(B) With respect to maternity care, the Secretary may make an exception under this subsection with respect to a military medical treatment facility.

(3) In the case of health care provided in conjunction with a graduate medical education program, the period of nonapplicability described in paragraph (1) shall be, instead of one year, the period for which a residency review committee has approved the program.

(d) EFFECTIVE DATE.—This section shall take effect on [October 1, 2001] two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002.

\* \* \* \* \*

## TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

\* \* \* \* \*

### Subtitle B—Information Technology

#### SEC. 811. ACQUISITION AND MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) \* \* \*

\* \* \* \* \*

(c) MILESTONE APPROVAL FOR MAJOR AUTOMATED INFORMATION SYSTEMS.—The revised directive required by subsection (b) shall prohibit [Milestone I] Milestone B approval, [Milestone II] Milestone C approval, or [Milestone III] full rate production approval (or the equivalent) of a major automated information system within the Department of Defense until the Chief Information Officer has determined that—

(1) \* \* \*

\* \* \* \* \*

**SEC. 814. NAVY-MARINE CORPS INTRANET.**

(a) \* \* \*

(b) PHASED IMPLEMENTATION.—(1) \* \* \*

\* \* \* \* \*

(4) No increment of the Navy-Marine Corps Intranet that is implemented during fiscal year **[2001]** 2002 may include any activities of the **[**Marine Corps, the naval shipyards, or**]** *naval shipyards* or the naval aviation depots. Funds available for fiscal year **[2001]** 2002 for activities of the **[**Marine Corps, the naval shipyards, or**]** *naval shipyards* or the naval aviation depots may not be expended for any contract for the Navy-Marine Corps Intranet.

(c) **[PROHIBITION ON INCREASE OF RATES CHARGED.—]** *PROHIBITIONS.—*(1) The Secretary of the Navy shall ensure that rates charged by a working capital funded industrial facility of the Department of the Navy for goods or services provided by such facility are not increased during fiscal year **[2001]** 2002 for the purpose of funding the Navy-Marine Corps Intranet contract.

(2) *The Navy Intranet contract may not include any activities of the Marine Corps.*

\* \* \* \* \*

## **TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT**

\* \* \* \* \*

### **Subtitle B—Department of Defense Organizations**

\* \* \* \* \*

**[SEC. 916. SEMIANNUAL REPORT ON JOINT REQUIREMENTS OVERSIGHT COUNCIL REFORM INITIATIVE.**

**[**(a) **SEMIANNUAL REPORT.**—The Chairman of the Joints Chiefs of Staff shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a series of five semiannual reports, as prescribed by subsection (b), on the activities of the Joint Requirements Oversight Council. The principal focus of each such report shall be on the progress made on the initiative of the Chairman to reform and refocus the Joint Requirements Oversight Council.

**[**(b) **SUBMISSION OF REPORTS.**—Reports under this section shall be submitted not later than March 1, 2001, September 1, 2001, March 1, 2002, September 1, 2002, and March 1, 2003. Each report shall cover the half of a fiscal year that ends five months before the date on which the report is due.

**[**(c) **CONTENT.**—In the case of any report under this section after the first such report, if any matter to be included is unchanged from the preceding report, that matter may be included by reference to the preceding report. Each such report shall include, to the extent practicable, the following:

[(1) A listing of each of the capability areas designated by the Chairman of the Joints Chiefs of Staff as being within the principal domain of the Joint Requirements Oversight Council and a justification for each such designation.

[(2) A listing of the joint requirements developed, considered, or approved within each of the capability areas listed pursuant to paragraph (1).

[(3) A listing and explanation of the decisions made by the Joint Requirements Oversight Council and, to the extent appropriate, a listing of each of the recommendations to the Council made by the commander of the United States Joint Forces Command.

[(4) An assessment of—

[(A) the progress made in shifting the Joint Requirements Oversight Council to having a more strategic focus on future war fighting requirements;

[(B) the progress made on integration of requirements; and

[(C) the progress made on development of overarching common architectures for defense information systems to ensure that common defense information systems are fully interoperable.

[(5) A description of any actions that have been taken to improve the Joint Requirements Oversight Council.]

\* \* \* \* \*

**TITLE X—GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle C—Counter-Drug Activities**

\* \* \* \* \*

**SEC. 1022. REPORT ON DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.**

Not later than January 1, 2001, and April 15, 2002, the Secretary of Defense shall submit to the congressional defense committees a report detailing the expenditure of funds by the Secretary during [fiscal year 2000] *the preceding fiscal year* in direct or indirect support of the counter-drug activities of foreign governments. The report shall include the following for each foreign government:

(1) \* \* \*

\* \* \* \* \*

**TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL**

\* \* \* \* \*

## Subtitle F—Voluntary Separation Incentive Pay and Early Retirement Authority

\* \* \* \* \*

### SEC. 1152. DEPARTMENT OF DEFENSE EMPLOYEE VOLUNTARY EARLY RETIREMENT AUTHORITY.

(a) \* \* \*

\* \* \* \* \*

(c) CONFORMING AMENDMENTS.—(1) \* \* \*

(2) Section 8464(a)(1)(A)(i) of such title is amended by striking out “or (b)(1)(B)” and *inserting* “, (b)(1)(B), or (d)”.

\* \* \* \* \*

## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

\* \* \* \* \*

### [(SEC. 1304. LIMITATIONS ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.

[(a) LIMITATIONS.—No fiscal year 2001 Cooperative Threat Reduction funds may be used—

[(1) for construction of a second wing for the storage facility for Russian fissile material referred to in section 1302(a)(5); or

[(2) for design or planning with respect to such facility until 15 days after the date that the Secretary of Defense submits to Congress notification that Russia and the United States have signed a written transparency agreement that provides for verification that material stored at the facility is of weapons origin.

[(b) ESTABLISHMENT OF FUNDING CAP FOR FIRST WING OF STORAGE FACILITY.—Out of funds authorized to be appropriated for Cooperative Threat Reduction programs for fiscal year 2001 or any other fiscal year, not more than \$412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5).]

### SEC. 1304. LIMITATION ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.

*Out of funds authorized to be appropriated for Cooperative Threat Reduction programs for fiscal year 2001 or any other fiscal year, not more than \$412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5).*

\* \* \* \* \*

### [(SEC. 1307. LIMITATION ON USE OF FUNDS FOR CONSTRUCTION OF FOSSIL FUEL ENERGY PLANTS; REPORT.

[(a) IN GENERAL.—No fiscal year 2001 Cooperative Threat Reduction funds may be used for the construction of a fossil fuel energy plant intended to provide power to local communities that al-

ready receive power from nuclear energy plants that produce plutonium.]

**SEC. 1307. PROHIBITION AGAINST USE OF FUNDS FOR CONSTRUCTION OR REFURBISHMENT OF FOSSIL FUEL ENERGY PLANTS; REPORT.**

(a) *PROHIBITION.*—No funds appropriated for Cooperative Threat Reduction programs for any fiscal year may be used for the construction or refurbishment of a fossil fuel energy plant intended to provide power to local communities that receive power from nuclear energy plants that produce plutonium.

\* \* \* \* \*

**SEC. 1308. REPORTS ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

(a) \* \* \*

\* \* \* \* \*

(c) **MATTERS TO BE INCLUDED.**—The report under subsection (a) in a year shall set forth the following:

(1) \* \* \*

\* \* \* \* \*

(4) A description of the [audits, examinations, and other efforts, such as on-site inspections, conducted] means (including program management, audits, examinations, and other means) used by the United States during the fiscal year ending in the year preceding the year of the report to ensure that assistance provided under Cooperative Threat Reduction programs is fully accounted for [and that such assistance is being used for its intended purpose], that such assistance is being used for its intended purpose, and that such assistance is being used efficiently and effectively, including—

(A) \* \* \*

\* \* \* \* \*

(C) a determination whether the assistance described in subparagraphs (A) and (B) has been used for its intended purpose and an assessment of whether the assistance being provided is being used effectively and efficiently; and

(D) a description of the [audits, examinations, and other] efforts planned to be carried out during the fiscal year beginning in the year of the report to ensure that Cooperative Threat Reduction assistance provided during such fiscal year is fully accounted for and is used for its intended purpose.

\* \* \* \* \*

**TITLE XV—NAVY ACTIVITIES ON THE ISLAND OF VIEQUES, PUERTO RICO**

\* \* \* \* \*

**[SEC. 1503. DETERMINATION REGARDING CONTINUATION OF NAVY TRAINING.**

[(a) REFERENDUM.—

[(1) REQUIREMENT.—Except as provided in paragraph (2), the President shall provide for a referendum to be conducted on the island of Vieques, Puerto Rico, to determine by a majority of the votes cast in the referendum by the Vieques electorate whether the people of Vieques approve or disapprove of the continuation of the conduct of live-fire training, and any other types of training, by the Armed Forces at the Navy's training sites on the island under the conditions described in subsection (d).

[(2) EXCEPTION.—If the Chief of Naval Operations and the Commandant of the Marine Corps jointly submit to the congressional defense committees, after the date of the enactment of this Act and before the date set forth in subsection (c), their certification that the Vieques Naval Training Range is no longer needed for training by the Navy and the Marine Corps, then the requirement for a referendum under paragraph (1) shall cease to be effective on the date on which the certification is submitted.

[(b) PROHIBITION OF OTHER PROPOSITIONS.—In the referendum under this section, no proposition or option may be presented as an alternative to the propositions of approval and of disapproval of the continuation of the conduct of training as described in subsection (a)(1).

[(c) TIME FOR REFERENDUM.—The referendum required under this section shall be held on May 1, 2001, or within 270 days before such date or 270 days after such date. The Secretary of the Navy shall publicize the date set for the referendum 90 days before that date.

[(d) REQUIRED TRAINING CONDITIONS.—For the purposes of the referendum under this section, the conditions for the continuation of the conduct of training are those that are proposed by the Secretary of the Navy and publicized on the island of Vieques in connection with, and for a reasonable period in advance of, the referendum. The conditions shall include the following:

[(1) LIVE-FIRE TRAINING.—A condition that the training may include live-fire training.

[(2) MAXIMUM ANNUAL DAYS OF USE.—A condition that the training may be conducted on not more than 90 days each year.

[(e) PROCLAMATION OF OUTCOME.—Promptly after the referendum is completed under this section, the President shall determine, and issue a proclamation declaring, the outcome of the referendum. The President's determination shall be final, and the outcome of the referendum (as so determined) shall be binding.

[(f) VIEQUES ELECTORATE DEFINED.—

[(1) REGISTERED VOTERS.—In this section, the term "Vieques electorate", with respect to a referendum under this section, means the residents of the island of Vieques, Puerto Rico, who, on both dates specified in paragraph (2), are registered to vote in a general election held for casting ballots for the election of the Resident Commissioner of the Commonwealth of Puerto Rico.

[(2) REGISTRATION DATES.—The dates referred to in paragraph (1) are as follows:



[(A) November 7, 2000.

[(B) The date that is 180 days before the date of the referendum under this section.

**[SEC. 1504. ACTIONS IF TRAINING IS APPROVED.**

[(a) **CONDITION FOR EFFECTIVENESS.**—This section shall take effect on the date on which the President issues a proclamation under subsection (e) of section 1503 declaring that the continuation of the conduct of training (including live-fire training) by the Armed Forces at the Navy’s training sites on the island of Vieques, Puerto Rico, under the conditions described in subsection (d) of such section, has been approved in the referendum conducted under such section.

[(b) **AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL ECONOMIC ASSISTANCE.**—There is authorized to be appropriated to the President \$50,000,000 to provide economic assistance for the people and communities of the island of Vieques. This authorization of appropriations is in addition to the amount authorized to be appropriated to provide economic assistance under section 1501.

[(c) **TRAINING RANGE TO REMAIN OPEN.**—The Vieques Naval Training Range shall remain available for the use of the Armed Forces, including for live-fire training.

**[SEC. 1505. REQUIREMENTS IF TRAINING IS NOT APPROVED OR MANDATE FOR REFERENDUM IS VITIATED.**

[(a) **CONDITIONS FOR EFFECTIVENESS.**—This section shall take effect on the date on which either of the following occurs:

[(1) The President issues a proclamation under subsection (e) of section 1503 declaring that the continuation of the conduct of training (including live-fire training) by the Armed Forces at the Navy’s training sites on the island of Vieques, Puerto Rico, under the conditions described in subsection (d) of such section, has not been approved in the referendum conducted under such section.

[(2) The requirement for a referendum under section 1503 ceases to be effective pursuant to subsection (a)(2) of such section.

[(b) **ACTIONS REQUIRED OF SECRETARY OF DEFENSE.**—

[(1) **TERMINATION OF OPERATION.**—Not later than May 1, 2003, the Secretary of Defense shall—

[(A) terminate all Navy and Marine Corps training operations on the island of Vieques; and

[(B) terminate all Navy and Marine Corps operations at Naval Station Roosevelt Roads, Puerto Rico, that are related exclusively to the use of the training range on the island of Vieques by the Navy and the Marine Corps.

[(2) **RELOCATION OF UNITS.**—The Secretary of Defense may relocate the units of the Armed Forces (other than those of the reserve components) and activities of the Department of Defense (including nonappropriated fund activities) at Fort Buchanan, Puerto Rico, to Naval Station Roosevelt Roads, Puerto Rico, to ensure maximum utilization of capacity.

[(3) **CLOSURE OF INSTALLATIONS AND FACILITIES.**—The Secretary of Defense shall close the Department of Defense installations and facilities on the island of Vieques, other than prop-

erties exempt from conveyance and transfer under section 1506.

[(c) ACTIONS REQUIRED OF SECRETARY OF THE NAVY.—The Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior—

[(1) the Live Impact Area on the island of Vieques;

[(2) all Department of Defense real properties on the eastern side of the island that are identified as conservation zones; and

[(3) all other Department of Defense real properties on the eastern side of the island.

[(d) ACTIONS REQUIRED OF SECRETARY OF THE INTERIOR.—

[(1) RETENTION AND ADMINISTRATION.—The Secretary of the Interior shall retain, and may not dispose of any of, the properties transferred under paragraphs (2) and (3) of subsection (c) and shall administer such properties as wildlife refuges under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) pending the enactment of a law that addresses the disposition of such properties.

[(2) RESPONSIBILITY FOR LIVE IMPACT AREA.—Upon a termination of Navy and Marine Corps training operations on the island of Vieques under subsection (b)(1), the Secretary of the Interior shall assume responsibility for the administration of the Live Impact Area, administer that area as a wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.), and deny public access to the area.

[(3) LIVE IMPACT AREA DEFINED.—In this section, the term “Live Impact Area” means the parcel of real property, consisting of approximately 900 acres (more or less), on the island of Vieques that is designated by the Secretary of the Navy for targeting by live ordnance in the training of forces of the Navy and Marine Corps.

[(e) GAO REVIEW.—

[(1) REQUIREMENT FOR REVIEW.—The Comptroller General shall review the requirement for the continued use of Fort Buchanan, Puerto Rico, by active Army forces and shall submit to the congressional defense committees a report containing—

[(A) the findings resulting from the review; and

[(B) recommendations regarding the closure of Fort Buchanan and the consolidation of units of the Armed Forces to Naval Station Roosevelt Roads, Puerto Rico.

[(2) TIME FOR SUBMITTAL OF REPORT.—The Comptroller General shall submit the report under paragraph (1) not later than one year after the date on which the referendum under section 1503 is conducted or one year after the date on which a certification is submitted to the congressional defense committees under subsection (a)(2) of such section, as the case may be.]

**SEC. 1503. CONDITIONS ON CLOSURE OF VIEQUES NAVAL TRAINING RANGE.**

(a) *REQUIRED CERTIFICATION.*—*The Secretary of the Navy may close the Vieques Naval Training Range on the island of Vieques, Puerto Rico, and discontinue live-fire training at that range only if—*

(1) *the Chief of Naval Operations and the Commandant of the Marine Corps jointly certify that there is an alternative*

*training facility that provides an equivalent or superior level of training for units of the Navy and the Marine Corps stationed or deployed in the eastern United States; and*

*(2) the new facility is available and fully capable of supporting such training immediately upon cessation of live-fire training on Vieques.*

*(b) EQUIVALENT OR SUPERIOR LEVEL OF TRAINING DEFINED.—In this section, the term “equal or superior level of training” refers to an ability by the Armed Forces to conduct at a single location coordinated live-fire training, including simultaneous large-scale tactical air strikes, naval surface fire support and artillery, and amphibious landing operations, as was conducted at Vieques Naval Training Range before April 19, 1999.*

**SEC. 1504. NAVY RETENTION OF CLOSED VIEQUES NAVAL TRAINING RANGE.**

*(a) RETENTION.—If the conditions specified in section 1503(a) are satisfied and the Secretary of the Navy terminates all Navy and Marine Corps training operations on the island of Vieques, the Secretary of the Navy shall retain administrative jurisdiction over the Live Impact Area and all other Department of Defense real properties on the eastern side of the island for possible reactivation for training use, including live-fire training, in the event a national emergency.*

*(b) ADMINISTRATION.—The Secretary of the Navy may enter into a cooperative agreement with the Secretary of the Interior to provide for management of the property described in subsection (a), pending reactivation for training use, by appropriate agencies of the Department of the Interior as follows:*

*(1) Management of the Live Impact Area as a wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.), including a prohibition on public access to the area.*

*(2) Management of the remaining property as wildlife refuges under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).*

*(c) LIVE IMPACT AREA DEFINED.—In this section, the term “Live Impact Area” means the parcel of real property, consisting of approximately 900 acres (more or less), on the island of Vieques that is designated by the Secretary of the Navy for targeting by live ordnance in the training of forces of the Navy and Marine Corps.*

\* \* \* \* \*

**SEC. 1507. MORATORIUM ON IMPROVEMENTS AT FORT BUCHANAN.**

*(a) \* \* \**

\* \* \* \* \*

*(c) TERMINATION.—This section shall cease to be effective upon [the issuance of a proclamation described in section 1504(a) or] the enactment of a law, after the date of the enactment of this Act, that authorizes any acquisition, construction, conversion, rehabilitation, extension, or improvement of any facility at Fort Buchanan, Puerto Rico.*

\* \* \* \* \*



**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993**

\* \* \* \* \*

**DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

\* \* \* \* \*

**Subtitle E—Defense Nuclear Workers**

**SEC. 3161. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN.**

(a) \* \* \*

\* \* \* \* \*

(c) OBJECTIVES.—In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) \* \* \*

\* \* \* \* \*

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) \* \* \*

\* \* \* \* \*

(C) programs carried out by the Department of Commerce pursuant to [title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.)] *title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.)*.

\* \* \* \* \*

**DIVISION D—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE**

\* \* \* \* \*

**TITLE XLIV—PERSONNEL ADJUSTMENT, EDUCATION, AND TRAINING PROGRAMS**

**Subtitle A—Active Forces Transition Enhancements**

\* \* \* \* \*

**SEC. 4403. TEMPORARY EARLY RETIREMENT AUTHORITY.**

(a) \* \* \*

\* \* \* \* \*

(i) ACTIVE FORCE DRAWDOWN PERIOD.—For purposes of this section, the active force drawdown period is the period beginning on the date of the enactment of this Act and ending on December 31, [2001] 2002.

\* \* \* \* \*

**Subtitle B—Guard and Reserve Transition Initiatives**

**SEC. 4411. FORCE REDUCTION TRANSITION PERIOD DEFINED.**

In this subtitle, the term “force reduction transition period” means the period beginning on October 1, 1991, and ending on December 31, [2001] 2002.

\* \* \* \* \*

**SEC. 4416. FORCE REDUCTION PERIOD RETIREMENTS.**

(a) \* \* \*

(b) TEMPORARY SPECIAL AUTHORITY.—During the force reduction transition period, the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before the end of the [force reduction period] *force reduction transition period*, such member completes 20 years of service computed under that section or section 12732;

\* \* \* \* \*

**Subtitle F—Job Training and Employment and Educational Opportunities**

**SEC. 4461. IMPROVED COORDINATION OF JOB TRAINING AND PLACEMENT PROGRAMS FOR MEMBERS OF THE ARMED FORCES.**

The Secretary of Defense shall consult with the Secretary of Labor, the Secretary of Education, the Secretary of Veterans Affairs, and the Economic Adjustment Committee to improve the coordination of, and eliminate duplication between, the following job training and placement programs available to members of the Armed Forces who are discharged or released from active duty:

(1) \* \* \*

\* \* \* \* \*

(5) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).

\* \* \* \* \*

**SEC. 4463. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.**

(a) \* \* \*

\* \* \* \* \*

(f) EXPIRATION.—The authority to grant a leave of absence under subsection (a) shall expire on December 31, ~~2001~~ 2002.

\* \* \* \* \*

**TITLE 37, UNITED STATES CODE**

\* \* \* \* \*

**CHAPTER 3—BASIC PAY**

\* \* \* \* \*

**§ 203. Rates**

(a) \* \* \*

\* \* \* \* \*

(d)(1) The basic pay of a commissioned officer who is in pay grade O-1, O-2, or O-3 and ~~who is credited with a total of over four years' active service as warrant officer or as a warrant officer and enlisted member~~ *is described in paragraph (2)* shall be computed in the same manner as the basic pay of a commissioned officer in the same pay grade who has been credited with over four years' active service as an enlisted member.

(2) Paragraph (1) applies with respect to a commissioned officer in pay grade O-1, O-2, or O-3 who—

(A) is credited with a total of over four years' active service as warrant officer or as a warrant officer and enlisted member; or

(B) earned a total of more than 1,460 points credited under section 12732(a)(2) of title 10 while serving as a warrant officer or enlisted member.

\* \* \* \* \*

**§ 204. Entitlement**

(a) \* \* \*

\* \* \* \* \*

(g)(1) A member of a reserve component of a uniformed service is entitled, to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

(A) \* \* \*

\* \* \* \* \*

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training~~], if the site is outside reasonable commuting distance from the member's residence~~]; or

\* \* \* \* \*

(h)(1) A member of a reserve component of a uniformed service who is physically able to perform his military duties, is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from nonmilitary employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

(A) \* \* \*

\* \* \* \* \*

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training[, if the site is outside reasonable commuting distance from the member's residence]; or

\* \* \* \* \*

**§ 206. Reserves; members of National Guard: inactive-duty training**

(a) Under regulations prescribed by the Secretary concerned, and to the extent provided for by appropriations, a member of the National Guard or a member of a reserve component of a uniformed service who is not entitled to basic pay under section 204 of this title, is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay—

(1) \* \* \*

\* \* \* \* \*

(3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—

(A) \* \* \*

\* \* \* \* \*

(C) in line of duty while while remaining overnight immediately before the commencement of inactive-duty training, or remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training[, if the site is outside reasonable commuting distance from the member's residence].

\* \* \* \* \*

**§ 209. Members of precommissioning programs**

(a) \* \* \*

\* \* \* \* \*

(c) PAY WHILE ATTENDING TRAINING OR PRACTICE CRUISE.—Each cadet or midshipman in the Senior Reserve Officers' Training Corps, while he is attending training or practice cruises under chapter 103 of title 10 if the training or cruise is of at least four weeks duration and must be completed before the cadet or mid-

shipman is commissioned, and each applicant for membership in the Senior Reserve Officers' Training Corps, while he is attending field training or practice cruises to satisfy the requirements of section 2104(b)(6)(B) of title 10 for admission to advanced training, is entitled, while so attending, to pay at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies under section 203(c) of this title *unless the cadet or midshipman is serving on active duty.*

\* \* \* \* \*

**CHAPTER 5—SPECIAL AND INCENTIVE PAYS**

Sec.

301. Incentive pay: hazardous duty.

\* \* \* \* \*

324. *Special pay: accession bonus for new officers.*

**§ 301. Incentive pay: hazardous duty**

(a) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to incentive pay, in the amount set forth in subsection (b) or (c), for the performance of hazardous duty required by orders. In this section, the term, "hazardous duty" means duty—

(1) \* \* \*

\* \* \* \* \*

(10) involving (A) the servicing of aircraft or missiles with highly toxic fuels or propellants, (B) the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used, or (C) the handling of chemical munitions (or components of such munitions); **[or]**

(11) *involving regular participation as a member of a team conducting visit, board, search, and seizure operations aboard vessels in support of maritime interdiction operations; or*

**[(11)]** (12) involving frequent and regular participation in aerial flight by a member who is serving as an air weapons controller crew member (as defined by the Secretary concerned) aboard an airborne warning and control system aircraft (as designated by such Secretary) and who is not entitled to incentive pay under section 301a of this title.

\* \* \* \* \*

(c)(1) For the performance of hazardous duty described in clauses (2) through **[(10)]** (11) of subsection (a), a member is entitled to \$150 a month. However, a member performing hazardous duty described in clause (3) of that subsection who also performs as an essential part of such duty parachute jumping in military free fall operations involving parachute deployment by the jumper without the use of a static line is entitled to \$225 a month.

(2)(A) For the performance of hazardous duty described in clause **[(11)]** (12) of subsection (a), a member is entitled to monthly incentive pay based upon his years of service as an air weapons controller as follows:

\* \* \* \* \*



**§ 301a. Incentive pay: aviation career**

(a) \* \* \*

\* \* \* \* \*

[(d) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, duty described in subsection (a) for members entitled to basic pay, he is entitled to an increase in compensation equal to  $\frac{1}{30}$  of the monthly incentive pay authorized by subsection (b) for the performance of that duty by a member with corresponding years of aviation service who is entitled to basic pay. Such member is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.]

*(d) MEMBERS PERFORMING INACTIVE-DUTY TRAINING.—Under regulations prescribed by the President and to the extent provided for by appropriations, in the case of a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, and who performs, under orders, duty described in subsection (a), the member is also entitled to monthly incentive pay under subsection (b) for the performance of that duty in the same manner as a member with corresponding years of aviation service who is entitled to basic pay. Such member is entitled to the incentive pay for as long as the member remains qualified for it, as provided in subsection (a). This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.*

\* \* \* \* \*

**§ 301b. Special pay: aviation career officers extending period of active duty**

(a) BONUS AUTHORIZED.—An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on December 31, [2001] 2002, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

\* \* \* \* \*

**§ 301c. Incentive pay: submarine duty**

(a)(1) Subject to regulations prescribed by the President, a member of the naval service who is entitled to basic pay, and (A) holds (or is in training leading to) a submarine duty designator, (B) is in and remains in the submarine service on a career basis, and (C) meets the requirements of paragraph (3), is entitled to continuous

monthly submarine duty incentive pay in the amount [set forth in] *prescribed pursuant to* subsection (b).

(2) Subject to regulations prescribed by the President, a member of the naval service who is entitled to basic pay but is not entitled to continuous monthly submarine duty incentive pay under paragraph (1) is entitled to submarine duty incentive pay in the amount [set forth in] *prescribed pursuant to* subsection (b) for any period during which such member performs frequent and regular operational submarine duty (as defined in paragraph (5)) required by orders.

\* \* \* \* \*

(4) If upon completion of either 12 or 18 years of submarine service it is determined that a member has failed to perform the minimum prescribed operational submarine duty requirements during the prescribed periods of time, his entitlement to continuous monthly submarine duty incentive pay ceases. If entitlement to continuous monthly submarine duty incentive pay ceases upon completion of 12 years of submarine service, entitlement to that pay may again commence upon completion of 18 years of submarine service if the minimum operational submarine duty requirements have been met, and such pay shall continue for the period of time prescribed in accordance with this section. However, if entitlement to continuous monthly submarine duty incentive pay ceases in the case of any member at the completion of either 12 or 18 years of submarine service or 26 years of service (as computed under section 205 of this title, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer), such member shall be entitled to that pay in the amount [set forth in] *prescribed pursuant to* subsection (b) for the performance of subsequent operational submarine duty, or for the performance of service as a member of a submarine operational command staff, if such member's duties require serving on a submarine during underway operations.

\* \* \* \* \*

[(b) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay as follows:

[ENLISTED MEMBERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9 .....	\$225	\$225	\$225	\$270	\$295	\$310	\$315
E-8 .....	225	225	225	250	270	295	310
E-7 .....	225	225	225	250	255	265	275
E-6 .....	155	170	175	215	230	245	255
E-5 .....	140	155	155	175	190	195	195
E-4 .....	80	95	100	170	175	175	175
E-3 .....	80	90	100	170	175	175	90
E-2 .....	75	90	90	90	90	90	90
E-1 .....	75	75	75	75	75	75	75

ENLISTED MEMBERS—Continued

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9 .....	\$330	\$345	\$355	\$355	\$355	\$355	\$355
E-8 .....	315	330	330	345	345	345	345
E-7 .....	295	310	310	310	310	310	310
E-6 .....	265	265	265	265	265	265	265
E-5 .....	195	195	195	195	195	195	195
E-4 .....	175	175	175	175	175	175	175
E-3 .....	90	90	90	90	90	90	90
E-2 .....	90	90	90	90	90	90	90
E-1 .....	75	75	75	75	75	75	75

COMMISSIONED OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 5	Over 6	Over 10
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
O-10 .....	\$355	\$355	\$355	\$355	\$355	\$355	\$355
O-9 .....	355	355	355	355	355	355	355
O-8 .....	355	355	355	355	355	355	355
O-7 .....	355	355	355	355	355	355	355
O-6 .....	595	595	595	595	595	595	595
O-5 .....	595	595	595	595	595	595	595
O-4 .....	365	365	365	405	595	595	595
O-3 .....	355	355	355	390	595	595	595
O-2 .....	235	235	235	235	235	235	355
O-1 .....	175	175	175	175	175	175	355
O-10 .....	\$355	\$355	\$355	\$355	\$355	\$355	\$355
O-9 .....	355	355	355	355	355	355	355
O-8 .....	355	355	355	355	355	355	355
O-7 .....	355	355	540	355	535	410	355
O-6 .....	595	595	595	595	595	595	595
O-5 .....	595	595	595	595	595	595	595
O-4 .....	595	595	595	595	595	595	595
O-3 .....	595	595	595	595	595	595	595
O-2 .....	355	355	355	355	355	355	355
O-1 .....	355	355	355	355	355	355	355

WARRANT OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-5 .....	\$235	\$310	\$310	\$355	\$355	\$355	\$355
W-4 .....	235	310	310	355	355	355	355
W-3 .....	235	310	310	355	355	355	355
W-2 .....	235	310	310	355	355	355	355
W-1 .....	235	310	310	355	355	355	355

WARRANT OFFICERS—Continued

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-5 .....	\$355	\$355	\$355	\$355	\$355	\$355	\$355
W-4 .....	355	355	355	355	355	355	355
W-3 .....	355	355	355	355	355	355	355
W-2 .....	355	355	355	355	355	355	355
W-1 .....	355	355	355	355	355	355	355

(b) MONTHLY RATES.—(1) Subject to paragraph (2), a member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay in an amount prescribed by the Secretary of the Navy.

(2) The monthly amount of submarine duty incentive pay may not exceed \$1,000.

\* \* \* \* \*

(d) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of the Naval Reserve who is entitled to compensation under section 206 of this title, performs, under orders, duty on a submarine during underway operations, he is eligible for an increase in such compensation equal to one-thirtieth of the monthly incentive pay [authorized by] prescribed pursuant to subsection (b) for the performance of that duty by a member of a corresponding grade and years of service who is entitled to basic pay. Such a member is eligible for the increase for each day served, for as long as he is qualified for it, during each regular period of appropriate duty.

\* \* \* \* \*

**§ 302d. Special pay: accession bonus for registered nurses**

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on November 29, 1989, and ending on December 31, [2001] 2002, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

\* \* \* \* \*

**§ 302e. Special pay: nurse anesthetists**

(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b)(1) who, during the period beginning on November 29, 1989, and ending on December 31, [2001] 2002, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary

concerned, be paid incentive special pay in an amount not to exceed \$15,000 for any 12-month period.

\* \* \* \* \*

**§ 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties**

(a) \* \* \*

\* \* \* \* \*

(f) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after December 31, [2001] 2002.

**§ 302h. Special pay: accession bonus for dental officers**

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a graduate of an accredited dental school and who, during the period beginning on [the date of the enactment of this section, and ending on September 30, 2002] *September 23, 1996, and ending on December 31, 2002*, executes a written agreement described in subsection (c) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

\* \* \* \* \*

**§ 308. Special pay: reenlistment bonus**

(a) \* \* \*

\* \* \* \* \*

(g) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty reenlistment, in the armed forces entered into after December 31, [2001] 2002.

\* \* \* \* \*

**§ 308b. Special pay: reenlistment bonus for members of the Selected Reserve**

(a) \* \* \*

\* \* \* \* \*

(f) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any enlisted member who, after December 31, [2001] 2002, reenlists or voluntarily extends his enlistment in a reserve component.

\* \* \* \* \*

**§ 308c. Special pay: bonus for enlistment in the Selected Reserve**

(a) \* \* \*

\* \* \* \* \*

(e) No bonus may be paid under this section to any enlisted member who, after December 31, [2001] 2002, enlists in the Selected Reserve of the Ready Reserve of an armed force.

\* \* \* \* \*

**§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain high priority units**

(a) \* \* \*

\* \* \* \* \*

(c) Additional compensation may not be paid under this section for inactive duty performed after December 31, [2001] 2002.

**§ 308e. Special pay: bonus for reserve affiliation agreement**

(a) \* \* \*

\* \* \* \* \*

(e) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after December 31, [2001] 2002.

\* \* \* \* \*

**§ 308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve**

(a)(1) An eligible person who is or has been a member of an armed force [and who], *who is qualified in a skill or speciality designated by the Secretary concerned as critically short to meet wartime requirements, and who* reenlists, enlists, or voluntarily extends an enlistment in [a combat or combat support skill of] an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a period of three years, or for a period of six years, beyond any other period the person is obligated to serve may be paid a bonus as provided in subsection (b).

\* \* \* \* \*

(g) A bonus may not be paid under this section to any person for a reenlistment, enlistment, or voluntary extension of an enlistment after December 31, [2001] 2002.

**§ 308i. Special pay: prior service enlistment bonus**

(a) \* \* \*

\* \* \* \* \*

(f) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any person for an enlistment after December 31, [2001] 2002.

**§ 309. Special pay: enlistment bonus**

(a) \* \* \*

\* \* \* \* \*

(e) DURATION OF AUTHORITY.—No bonus shall be paid under this section with respect to any enlistment in the armed forces made after December 31, ~~2001~~ 2002.

\* \* \* \* \*

**§ 312. Special pay: nuclear-qualified officers extending period of active duty**

(a) \* \* \*

\* \* \* \* \*

(e) The provisions of this section shall be effective only in the case of officers who, on or before December 31, ~~2001~~ 2002, execute the required written agreement to remain in active service.

\* \* \* \* \*

**§ 312b. Special pay: nuclear career accession bonus**

(a) \* \* \*

\* \* \* \* \*

(c) The provisions of this section shall be effective only in the case of officers who, on or before December 31, ~~2001~~ 2002, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

**§ 312c. Special pay: nuclear career annual incentive bonus**

(a) \* \* \*

\* \* \* \* \*

(d) For the purposes of this section, a “nuclear service year” is any fiscal year beginning before December 31, ~~2001~~ 2002.

\* \* \* \* \*

**§ 318. Special pay: special warfare officers extending period of active duty**

(a) \* \* \*

\* \* \* \* \*

(h) REPAYMENT.—(1) \* \* \*

\* \* \* \* \*

(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection ~~[(a)]~~ (b) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

\* \* \* \* \*

**§ 322. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986**

(a) \* \* \*

\* \* \* \* \*

(d) AMOUNT OF BONUS; PAYMENT.—(1) A bonus under this section shall be ~~paid in a single lump sum of~~ equal to \$30,000.

(2) A member electing to receive the bonus under this section shall elect one of the following payment options:

- (A) A single lump sum of \$30,000.
- (B) Two installments of \$15,000 each.
- (C) Three installments of \$10,000 each.
- (D) Four installments of \$7,500 each.
- (E) Five installments of \$6,000 each.

(3) If a member elects installment payments under paragraph (2), the second installment (and subsequent installments, as applicable) shall be paid on the earlier of the following dates:

- (A) The annual anniversary date of the payment of the first installment.
- (B) January 15 of each succeeding calendar year.

[(2) The bonus] (4) The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments, shall be paid to an eligible career bonus member not later than the first month that begins on or after the date that is 60 days after the date on which the Secretary concerned receives from the member the election required under subsection (a)(1) and the written agreement required under subsection (a)(2), if applicable.

\* \* \* \* \*

**§ 323. Special pay: retention incentives for members qualified in a critical military skill**

(a) \* \* \*

\* \* \* \* \*

(i) **TERMINATION OF BONUS AUTHORITY.**—No bonus may be paid under this section with respect to any reenlistment, or voluntary extension of an enlistment, in the armed forces entered into after December 31, [2001] 2002, and no agreement under this section may be entered into after that date.

**§ 324. Special pay: accession bonus for new officers**

(a) **ACCESSION BONUS AUTHORIZED.**—Under regulations prescribed by the Secretary concerned, a person who executes a written agreement to accept a commission as an officer of the armed forces and serve on active duty for the period specified in the agreement may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(b) **LIMITATION ON AMOUNT OF BONUS.**—The amount of an accession bonus under subsection (a) may not exceed \$100,000.

(c) **PAYMENT METHOD.**—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount of the accession bonus payable under the agreement becomes fixed. The agreement shall specify whether the accession bonus will be paid by the Secretary in a lump sum or installments.

(d) **RELATION TO OTHER ACCESSION BONUS AUTHORITY.**—An individual may not receive a accession bonus under this section and section 302d, 302h, 302j, or 312b of this title for the same period of service.



(e) *REPAYMENT.*—(1) *If an individual who has entered into an agreement under subsection (a) and has received all or part of the accession bonus under the agreement fails to accept a commission as an officer or to commence or complete the total period of active duty service specified in the agreement, the Secretary concerned may require the individual to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, any or all of the amount paid to the individual under the agreement.*

(2) *An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.*

(3) *A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (a) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).*

## CHAPTER 7—ALLOWANCES

\* \* \* \* \*

### § 402. Basic allowance for subsistence

(a) \* \* \*

(b) *RATES OF ALLOWANCE BASED ON FOOD COSTS.*—(1) \* \* \*

\* \* \* \* \*

(4) *For purposes of implementing paragraph (2), the monthly rate of basic allowance for subsistence that was in effect for an enlisted member for calendar year 2001 shall be deemed to be \$233.*

\* \* \* \* \*

[(d) *SPECIAL RULE FOR MEMBERS AUTHORIZED TO MESS SEPARATELY.*—(1) *In areas prescribed by the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an enlisted member described in paragraph (2) is entitled to not more than the pro rata allowance in effect under paragraph (1) or (2) of subsection (b) for each meal the member buys from a source other than a messing facility of the United States.*

[(2) *An enlisted member referred to in paragraph (1) is a member who is granted permission to mess separately and whose duties require the member to buy at least one meal from a source other than a messing facility of the United States.*]

(d) *SPECIAL RULE FOR ENLISTED MEMBERS WHO MESS SEPARATELY.*—*The Secretary of Defense may prescribe a basic allowance for subsistence for enlisted members at a rate higher than the rate provided for in subsection (b) when messing facilities of the United States are not available for the members.*

\* \* \* \* \*

### § 402a. Supplemental subsistence allowance for low-income members with dependents

(a) \* \* \*

(b) *MEMBERS ENTITLED TO ALLOWANCE.*—(1) *Subject to subsection (d), a member of the armed forces with dependents is enti-*

tled to receive the supplemental subsistence allowance if the Secretary concerned determines that the member's income, together with the income of the rest of the member's household (if any), is within the highest income standard of eligibility, as then in effect under section 5(c) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)) and without regard to paragraph (1) of such section, for participation in the food stamp program.

\* \* \* \* \*

#### § 403. Basic allowance for housing

(a) \* \* \*

\* \* \* \* \*

(i) TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS.—A member of a uniformed service [who is in a pay grade E-4 (4 or more years of service) or above] is entitled to a temporary basic allowance for housing (at a rate determined by the Secretary of Defense) while the member is in a travel or leave status between permanent duty stations, including time granted as delay en route or proceed time, when the member is not assigned to quarters of the United States.

\* \* \* \* \*

#### § 404. Travel and transportation allowances: general

(a) \* \* \*

\* \* \* \* \*

(c)(1) Under uniform regulations prescribed by the Secretaries concerned and as provided in paragraph (2), a member who—

(A) \* \* \*

\* \* \* \* \*

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002,

\* \* \* \* \*

(d)(1) \* \* \*

\* \* \* \* \*

(5) *The per diem rates established under paragraph (2)(A) for travel performed in connection with a change of permanent station or for travel described in paragraph (2) or (3) of subsection (a) shall be equal to the standard per diem rates established in the Federal travel regulation for travel within the continental United States of civilian employees and their dependents, unless the Secretaries concerned determines that a higher rate for members is more appropriate.*

\* \* \* \* \*

(f)(1) \* \* \*

(2)(A) \* \* \*

(B) Subparagraph (A) does not apply to a member—

(i) \* \* \*

\* \* \* \* \*

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002.

\* \* \* \* \*

**§ 404a. Travel and transportation allowances: temporary lodging expenses**

(a) PAYMENT OR REIMBURSEMENT OF SUBSISTENCE EXPENSES.—

(1) \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

(C) In the case of [an enlisted member] a member who is reporting to the member's first permanent duty station, the change from the member's home of record or initial technical school to that first permanent duty station.

\* \* \* \* \*

(e) MAXIMUM DAILY PAYMENT.—A member may not be paid or reimbursed more than [ \$110 ] \$180 a day under this section.

\* \* \* \* \*

**§ 406. Travel and transportation allowances: dependents; baggage and household effects**

(a)(1) Except as provided in paragraph (2), a member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation, plus a per diem, for the member's dependents at rates prescribed by the Secretaries concerned, but not more than the rate authorized under section 404(d) of this title. The Secretary concerned may also reimburse the member for mandatory pet quarantine fees for household pets, but not to exceed [ \$275 ] \$675 per change of station, when the member incurs the fees incident to such change of station.

(2)(A) \* \* \*

(B) Subparagraph (A) does not apply to a member—

(i) \* \* \*

\* \* \* \* \*

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002.

\* \* \* \* \*

(b)(1)(A) \* \* \*

\* \* \* \* \*

(C) Under regulations prescribed by the Secretary of Defense, the weight allowance in pounds to which a member is entitled under subparagraph (A) is determined in accordance with the following table:

Pay Grade	Without Dependents	With Dependents
O-10 to O-6	18,000	18,000
O-5	16,000	17,500
O-4	14,000	17,000
O-3	13,000	14,500
O-2	12,500	13,500
O-1	10,000	12,000
W-5	16,000	17,500
W-4	14,000	17,000
W-3	13,000	14,500
W-2	12,500	13,500
W-1	10,000	12,000
E-9	12,000	14,500
E-8	11,000	13,500
E-7	10,500	12,500
E-6	8,000	11,000
E-5	7,000	9,000
E-4 <sup>1</sup>	7,000	8,000
E-4 <sup>2</sup>	3,500	7,000
E-3	2,000	5,000
E-2	1,500	5,000
E-1	1,500	5,000

<sup>1</sup> Member with more than two years of service computed under section 205 of this title.  
<sup>2</sup> Member with less than two years of service computed under section 205 of this title.]

E-4	7,000	8,000
E-3	5,000	8,000
E-2	5,000	8,000
E-1	5,000	8,000

\* \* \* \* \*

(g)(1) Under uniform regulations prescribed by the Secretaries concerned, a member who—

(A) \* \* \*

\* \* \* \* \*

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, ~~2001~~ 2002,

\* \* \* \* \*

**§ 407. Travel and transportation allowances: dislocation allowance**

(a) ELIGIBILITY FOR PRIMARY DISLOCATION ALLOWANCE.—(1) \* \* \*

(2) A member of the uniformed services referred to in paragraph (1) is any of the following:

(A) \* \* \*

\* \* \* \* \*

(F) A member married to another member, both of whom are without other dependents, who actually moves to a new permanent duty station where the member is assigned to family housing provided by the United States, except that only one disloca-

*tion allowance may be paid to the married couple with respect to the move.*

\* \* \* \* \*

(e) **[FIRST OR LAST DUTY] EFFECT OF ORDER FROM LAST DUTY STATION.**—A member is not entitled to payment of a dislocation allowance under this section when the member is ordered **[from the member’s home to the member’s first duty station or]** from the member’s last duty station to the member’s home.

(f) **PARTIAL DISLOCATION ALLOWANCE.**—(1) *Under regulations prescribed by the Secretary concerned, a member ordered to occupy or vacate family housing provided by the United States to permit the privatization or renovation of housing or for any other reason (other than pursuant to a permanent change of station) may be paid a partial dislocation allowance of \$500.*

(2) *Effective on the same date that the monthly rates of basic pay for all members are increased under section 1009 of this title or another provision of law, the Secretary of Defense shall adjust the rate of the partial dislocation allowance authorized by this subsection by the percentage equal to the average percentage increase in the rates of basic pay.*

(3) *Subsections (c) and (d) do not apply to the partial dislocation allowance authorized by this subsection.*

**[(f)] (g) RULE OF CONSTRUCTION.**—For purposes of this section, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents.

**[(g)] (h) ADVANCE PAYMENT.**—A dislocation allowance payable under this section may be paid in advance.

\* \* \* \* \*

**§ 411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours**

(a)(1) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service stationed outside the 48 contiguous States and the District of Columbia who is ordered to a consecutive tour of duty at the same duty station or who is ordered to make a change of permanent station to another duty station outside the 48 contiguous States and the District of Columbia may be paid travel and transportation allowances in connection with authorized leave from his last duty station to a place approved by the Secretary concerned**[, or his designee, or to a place no farther distant than his home of record]** and from that place to his designated post of duty. Such allowances may be paid for the member and for the dependents of the member who are authorized to, and do, accompany him at his duty stations.

\* \* \* \* \*

**§ 416. Uniform allowance: officers; additional allowances**

(a) \* \* \*

(b) Subsection (a) does not apply to a tour of active duty if—

(1) the officer, during that tour or within a period of two years before entering on that tour, received, under any law, an initial uniform reimbursement or allowance of more than ~~[\$200]~~ \$400; or

\* \* \* \* \*

**§ 427. Family separation allowance**

(a) \* \* \*

\* \* \* \* \*

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—~~[A member]~~ (1) *Except as provided in paragraph (2) or (3), a member* who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A).

(2) *A member who elects to serve an unaccompanied tour of duty because the movement of a dependent of the member to the permanent station is denied for certified medical reasons is entitled to an allowance under subsection (a)(1)(A).*

(3) The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

\* \* \* \* \*

**§ 430. Travel and transportation: dependent children of members stationed overseas**

(a) Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service who—

(1) \* \* \*

\* \* \* \* \*

(3) has a dependent child who is under 23 years of age attending a school in the continental United States for the purpose of obtaining a formal education *or is attending a school outside the continental United States, if the dependent is attending the school outside the continental United States for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled,*

\* \* \* \* \*

(b)(1) A member described in subsection (a) may be paid a transportation allowance for each unmarried dependent child, who is under 23 years of age and is attending a school ~~[in the continental United States for the purpose of obtaining a formal education]~~ *described in subsection (a)(3),* of one annual trip between the school being attended and the member's duty station outside the continental United States and return. The allowance authorized by this section may be transportation in kind or reimbursement therefor, as prescribed by the Secretaries concerned. However, the transportation authorized by this section may not be paid a member for a child attending a school in the continental United States for the

purpose of obtaining a secondary education if the child is eligible to attend a secondary school for dependents that is located at or in the vicinity of the duty station of the member and is operated under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

\* \* \* \* \*

(3) *The transportation allowance under paragraph (1) for a dependent child who is attending a school outside the continental United States for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled shall not exceed the allowance the member would be paid for a trip between the school in the continental United States and the member's duty station outside the continental United States and return.*

(c) Whenever possible, the [Military Airlift Command] *Air Mobility Command* or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

\* \* \* \* \*

**§ 432. Travel and transportation: members escorting certain dependents**

(a) \* \* \*

(b) Whenever possible, the [Military Airlift Command] *Air Mobility Command* or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

\* \* \* \* \*

**§ 435. Funeral honors duty: allowance**

(a) ALLOWANCE AUTHORIZED.—(1) The Secretary concerned may authorize payment of an allowance to a member of the Ready Reserve for any day on which the member performs at least two hours of funeral honors duty pursuant to section 12503 of title 10 or section 115 of title 32.

(2) *The Secretary concerned may also authorize payment of an allowance under this section to a retired member of the armed forces who performs at least two hours of duty preparing for or performing honors at the funeral of a veteran.*

\* \* \* \* \*

(c) CONCURRENT PAYMENT.—*Notwithstanding any other provision of law, the allowance paid to a retired member of the armed forces under this section shall be in addition to any other compensation to which the retired member may be entitled under this title or titles 10 or 38.*

**§ 436. Per diem allowance for lengthy or numerous deployments**

(a) PER DIEM REQUIRED.—The Secretary of the military department concerned shall pay a high-deployment per diem allowance to a member of the armed forces under the Secretary's jurisdiction for each day on which the member (1) is deployed, and (2) has, as of that day, been deployed 401 or more days out of the preceding 730 days. *The Secretary shall pay the allowance from appropriations*

*available for operation and maintenance for the armed force in which the member serves.*

\* \* \* \* \*

**SECTION 503 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991**

**SEC. 503. TRAVEL AND TRANSPORTATION ALLOWANCES RELATING TO MEMBERS INVOLUNTARILY SEPARATED**

(a) \* \* \*

\* \* \* \* \*

(c) **STORAGE OF HOUSEHOLD EFFECTS.**—(1) The Secretary of a military department shall exercise the authority provided by section 406 of title 37, United States Code, to provide nontemporary storage of baggage and household effects for a period not longer than one year in the case of individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, [2001] 2002.

\* \* \* \* \*

**TITLE 32, UNITED STATES CODE**

\* \* \* \* \*

**CHAPTER 1—ORGANIZATION**

\* \* \* \* \*

**§ 115. Funeral honors duty performed as a Federal function**

(a) **ORDER TO DUTY.**—A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to funeral honors duty, with the consent of the member, to prepare for or perform funeral honors functions at the funeral of a veteran under section 1491 of title 10. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to perform funeral honors functions under this section without the consent of the Governor or other appropriate authority of the State concerned. *Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.*

\* \* \* \* \*

**CHAPTER 5—TRAINING**

\* \* \* \* \*

**§ 509. National Guard Challenge Program of opportunities for civilian youth**

(a) \* \* \*



(b) CONDUCT OF THE PROGRAM.—(1) The Secretary of Defense shall provide for the conduct of the National Guard Challenge Program in such States as the Secretary considers to be appropriate.

(2) The Secretary shall carry out the National Guard Challenge Program using—

(A) funds appropriated directly to the Secretary of Defense for the program, except that the amount of funds appropriated directly to the Secretary and expended for the program [in a fiscal year] in fiscal year 2001 or 2002 may not exceed \$62,500,000; and

\* \* \* \* \*

(d) MATCHING FUNDS REQUIRED.—The amount of assistance provided under this section to a State program of the National Guard Challenge Program may not exceed—

[(1) for fiscal year 1998, 75 percent of the costs of operating the State program during that year;

[(2) for fiscal year 1999, 70 percent of the costs of operating the State program during that year;

[(3) for fiscal year 2000, 65 percent of the costs of operating the State program during that year; and

[(4) for fiscal year 2001 and each subsequent fiscal year, 60 percent of the costs of operating the State program during that year.]

(1) for fiscal years 2001 and 2002, 60 percent of the costs of operating the State program during that fiscal year; and

(2) for fiscal year 2003 and each subsequent fiscal year, 75 percent of the costs of operating the State program during that fiscal year.

\* \* \* \* \*

**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT**

\* \* \* \* \*

**SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES**

\* \* \* \* \*

**§ 3374. Assignments of employees from State or local governments**

(a) \* \* \*

\* \* \* \* \*

(c) During the period of assignment, a State or local government employee on detail to a Federal agency—

(1) is not entitled to pay from the agency, except to the extent that the pay received from the State or local government is less than the appropriate rate of pay which the duties would

warrant under the applicable pay provisions of this title or other applicable authority;

(2) is deemed an employee of the agency for the purpose of chapter 73 of this title, *the Ethics in Government Act of 1978*, section 1043 of the *Internal Revenue Code of 1986*, section 27 of the *Office of Federal Procurement Policy Act*, sections 203, 205, 207, 208, 209, 602, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, sections 1343, 1344, and 1349(b) of title 31, and the Federal Tort Claims Act and any other Federal tort liability statute; and

\* \* \* \* \*

**CHAPTER 53—PAY RATES AND SYSTEMS**

\* \* \* \* \*

**SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES**

\* \* \* \* \*

**§ 5315. Positions at level IV**

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

\* \* \* \* \*

*Principal Deputy Administrator, National Nuclear Security Administration.*

*Additional Deputy Administrators of the National Nuclear Security Administration (3), but if the Deputy Administrator for Naval Reactors is an officer of the Navy on active duty, (2).*

\* \* \* \* \*

**SUBCHAPTER IV—PREVAILING RATE SYSTEMS**

\* \* \* \* \*

**§ 5343. Prevailing rate determinations; wage schedules; night differentials**

(a) \* \* \*

\* \* \* \* \*

(c) The Office of Personnel Management, by regulation, shall prescribe practices and procedures for conducting wage surveys, analyzing wage survey data, developing and establishing wage schedules and rates, and administering the prevailing rate system. The regulations shall provide—

(1) \* \* \*

\* \* \* \* \*

(4) for proper differentials, as determined by the Office, for duty involving unusually severe working conditions or unusually severe hazards (*and for any hardship or hazard related to asbestos, such differentials shall be determined by applying oc-*

*cupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970);*

\* \* \* \* \*

(d)(1) \* \* \*

[(2) When the lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall—

[(A) establish the wage schedules and rates to be applicable to prevailing rate employees other than prevailing rate employees of the Department of Defense on the basis of—

[(i) local private industry rates; and

[(ii) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made; and

[(B) establish the wage schedules and rates to be applicable to prevailing rate employees of the Department of Defense only on the basis of local private industry rates.]

*(2) When a lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish those schedules and rates on the basis of—*

*(A) local private industry rates; and*

*(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.*

\* \* \* \* \*

**CHAPTER 55—PAY ADMINISTRATION**

\* \* \* \* \*

**SUBCHAPTER V—PREMIUM PAY**

\* \* \* \* \*

**§ 5543. Compensatory time off**

(a) The head of an agency may—

(1) on request of an employee, grant the employee compensatory time off from his scheduled tour of duty instead of payment under section 5542 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in [irregular or occasional] overtime work; and

(2) provide that an employee whose rate of basic pay is in excess of the maximum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) shall be granted compensatory time off from his scheduled tour of duty equal to the amount of time spent in [irregular or occa-

sional] overtime work instead of being paid for that work under section 5542 of this title.

(b) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee's scheduled tour of duty instead of payment under section 5544 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in [irregular or occasional] overtime work. An agency head may not require an employee to be compensated for overtime work with an equivalent amount of compensatory time-off from the employee's tour of duty.

\* \* \* \* \*

**§ 5545. Night, standby, irregular, and hazardous duty differential**

(a) \* \* \*

\* \* \* \* \*

(d) The Office shall establish a schedule or schedules of pay differentials for duty involving unusual physical hardship or hazard (and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970). Under such regulations as the Office may prescribe, and for such minimum periods as it determines appropriate, an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. However, the pay differential—

(1) \* \* \*

\* \* \* \* \*

**§ 5547. Limitation on premium pay**

[(a) An employee may be paid premium pay under sections 5542, 5545 (a), (b), and (c), 5545a, and 5546 (a) and (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law). The first sentence of this subsection shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.

[(b)(1) Subject to regulations prescribed by the Office of Personnel Management, the first sentence of subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency which involves a direct threat to life or property, including a forest wildfire emergency.

[(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) if, or to the extent

that, the aggregate of such employee's basic pay and premium pay under those provisions would, in any calendar year, exceed the maximum rate payable for GS-15 in effect at the end of such calendar year.】

*(a) An employee may be paid premium pay under sections 5542, 5545 (a), (b), and (c), 5545a, and 5546 (a) and (b) of this title only to the extent that the aggregate of such employee's basic pay and premium pay under those provisions would, in any calendar year, exceed the maximum rate payable for GS-15 in effect at the end of such calendar year.*

*(b) Subsection (a) shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.*

(c)(1) 【Subsections (a) and (b)】 *Subsection (a) shall not apply to a law enforcement officer.*

(2) A law enforcement officer may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) only to the extent that the payment does not cause the officer's aggregate rate of pay for any 【pay period】 *calendar year* to exceed the lesser of—

(A) \* \* \*

\* \* \* \* \*

**CHAPTER 57—TRAVEL, TRANSPORTATION, AND  
SUBSISTENCE**

\* \* \* \* \*

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

5751. Travel expenses of witnesses.

\* \* \* \* \*

5757. *Payment of expenses to obtain professional credentials.*

\* \* \* \* \*

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

**§5757. *Payment of expenses to obtain professional credentials***

*(a) An agency may use appropriated funds or funds otherwise available to the agency to pay for—*

- (1) expenses for employees to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and*
- (2) examinations to obtain such credentials.*

*(b) The authority under subsection (a) may not be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position that is excepted from the competitive service because of the confidential, policy-determining, policy-making, or policy-advocating character of the position.*

\* \* \* \* \*

CHAPTER 63—LEAVE

\* \* \* \* \*

SUBCHAPTER II—OTHER PAID LEAVE

\* \* \* \* \*

§ 6323. Military leave; Reserves and National Guardsmen

(a)(1) Subject to paragraph (2) of this subsection, an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, is entitled to leave without loss in pay, time, or performance or efficiency rating for active duty, inactive-duty training (as defined in section 101 of title 37), funeral honors duty (as described in section 12503 of title 10 and section 115 of title 32), or engaging in field or coast defense training under sections 502–505 of title 32 as a Reserve of the armed forces or member of the National Guard. Leave under this subsection accrues for an employee or individual at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year.

\* \* \* \* \*

CHAPTER 83—RETIREMENT

\* \* \* \* \*

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

\* \* \* \* \*

§ 8336. Immediate retirement

(a) \* \* \*

\* \* \* \* \*

(d) An employee who—

(1) \* \* \*

(2) except in the case of an employee who is separated from the service under a program carried out under subsection [(o)] (p), while serving in a geographic area designated by the Office of Personnel Management, is separated from the service voluntarily during a period in which the Office determines that—

\* \* \* \* \*

[(o)] (p)(1) The Secretary of Defense may, during fiscal years 2002 and 2003, carry out a program under which an employee of the Department of Defense may be separated from the service entitled to an immediate annuity under this subchapter if the employee—

(A) \* \* \*

\* \* \* \* \*

**§ 8347. Administration; regulations**

(a) \* \* \*

\* \* \* \* \*

(q)(1) Under regulations prescribed by the Office of Personnel Management, an employee who—

(A) \* \* \*

(B) **[has 5 or more years of civilian service creditable under]** *is employed subject to this subchapter; and*

(2) Under regulations prescribed by the Office of Personnel Management, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c), who—

(A) \* \* \*

(B) is a **[vested]** participant in a retirement system established for employees described in section 2105(c)**[, as the term “vested participant” is defined by such system];**

\* \* \* \* \*

**CHAPTER 84—FEDERAL EMPLOYEES’ RETIREMENT SYSTEM**

\* \* \* \* \*

**SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS**

**§ 8461. Authority of the Office of Personnel Management**

(a) \* \* \*

\* \* \* \* \*

(n)(1) Under regulations prescribed by the Office, an employee who—

(A) \* \* \*

(B) **[has 5 more years of civilian service creditable under]** *is employed subject to this chapter; and*

\* \* \* \* \*

(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who—

(A) \* \* \*

(B) is a **[vested]** participant in a retirement system established for employees described in section 2105(c)**[, as the term “vested participant” is defined by such system];**

\* \* \* \* \*

**CHAPTER 89—HEALTH INSURANCE**

\* \* \* \* \*

**§ 8906. Contributions**

(a) \* \* \*

\* \* \* \* \*

(e)(1) \* \* \*

\* \* \* \* \*

(3)(A) *An employing agency may pay both the employee and Government contributions, and any additional administrative expenses otherwise chargeable to the employee, with respect to health care coverage for an employee described in subparagraph (B) and the family of such employee.*

(B) *An employee referred to in subparagraph (A) is an employee who—*

- (i) is enrolled in a health benefits plan under this chapter;*
- (ii) is a member of a reserve component of the armed forces;*
- (iii) is called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);*
- (iv) is placed on leave without pay or separated from service to perform active duty; and*
- (v) serves on active duty for a period of more than 30 consecutive days.*

(C) *Notwithstanding the one-year limitation on coverage described in paragraph (1)(A), payment may be made under this paragraph for a period not to exceed 18 months.*

**[(f) The Government contributions for health benefits for an employee shall be paid—]**

*(f) The Government contribution, and any additional payments under subsection (e)(3)(A), for health benefits for an employee shall be paid—*

- (1) in the case of employees generally, from the appropriation or fund which is used to pay the employee;*

\* \* \* \* \*

**CHAPTER 90—LONG-TERM CARE INSURANCE**

\* \* \* \* \*

**§ 9001. Definitions**

For purposes of this chapter:

(1) \* \* \*

\* \* \* \* \*

(3) **MEMBER OF THE UNIFORMED SERVICES.**—The term “member of the uniformed services” means a member of the uniformed services, other than a retired member of the uniformed services, who is—

- (A) on active duty or full-time National Guard duty for a period of more than 30 days; **[and]** *or*
- (B) a member of the Selected Reserve.

\* \* \* \* \*

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**TITLE 14, UNITED STATES CODE**

\* \* \* \* \*



**CHAPTER 13—PAY, ALLOWANCES, AWARDS, AND OTHER  
RIGHTS AND BENEFITS**

Sec.

461. Remission of indebtedness of enlisted members upon discharge.

\* \* \* \* \*

504. *Medal of honor: duplicate medal.*

\* \* \* \* \*

**§ 501. Replacement of medals**

In those cases where a medal, or a bar, emblem, or insignia in lieu thereof, awarded pursuant to this chapter has been *stolen*, lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded, such medal, or bar, emblem, or insignia in lieu thereof, shall be replaced without charge, or, in the discretion of the Secretary, upon condition that the Government is reimbursed for the cost thereof.

\* \* \* \* \*

**§ 504. Medal of honor: duplicate medal**

*A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary may determine, as a duplicate or for display purposes only.*

\* \* \* \* \*

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**SECTION 704 OF TITLE 18, UNITED STATES CODE**

**§ 704. Military medals or decorations**

(a) \* \* \*

(b) CONGRESSIONAL MEDAL OF HONOR.—

(1) \* \* \*

(2) DEFINITIONS.—(A) \* \* \*

**[(B) As used in this subsection, “Congressional Medal of Honor” means a medal awarded under section 3741, 6241, or 8741 of title 10.]**

*(B) As used in this subsection, “Congressional Medal of Honor” means—*

*(i) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or section 491 of title 14;*

*(ii) a duplicate medal of honor issued under section 3754, 6256, or 8754 of title 10 or section 504 of title 14; or*

*(iii) a replacement of a medal of honor provided under section 3747, 6253, or 8747 of title 10 or section 501 of title 14.*

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**SECTION 721 OF THE NATIONAL DEFENSE  
AUTHORIZATION ACT, FISCAL YEAR 1989**

**[(SEC. 721. REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL  
TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN  
OFFENSES**

[(a) Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall ensure that the Secretaries of the military departments have issued uniform regulations pursuant to section 814 of title 10, United States Code, to provide for the delivery of members of the Armed Forces to civilian authority when such members have been accused of offenses against civil authority. Such regulations shall specifically provide for the delivery of such members to civilian authority, in appropriate cases, when such members are accused of parental kidnapping and other similar offenses, including criminal contempt arising from such offenses and from child custody matters, and shall specifically address the special needs for the exercise of the authority contained in section 814 of title 10, United States Code, when members of the Armed Forces assigned overseas are accused of offenses by civilian authorities.

[(b) Not later than 120 days after the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a copy of all regulations promulgated under section 814 of title 10, United States Code, as a result of this section and any recommendations that the Secretary may have concerning the need for additional legislation related to the amenability of members of the Armed Forces to civil authority.]

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**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL  
YEAR 1994**

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF  
DEFENSE AUTHORIZATIONS**

\* \* \* \* \*

**TITLE V—MILITARY PERSONNEL  
POLICY**

\* \* \* \* \*

**Subtitle D—Women in the Service**

\* \* \* \* \*

**SEC. 542. NOTICE TO CONGRESS OF PROPOSED CHANGES IN COMBAT  
ASSIGNMENTS TO WHICH FEMALE MEMBERS MAY BE AS-  
SIGNED.**

(a) \* \* \*

(b) SPECIAL RULE FOR GROUND COMBAT EXCLUSION POLICY.—(1) If the Secretary of Defense proposes to make any change described in paragraph (2) to the ground combat exclusion policy, the Secretary shall, [not less than 90 days] before any such change is implemented, submit to Congress a report providing notice of the proposed change. *Such a change may then be implemented only after the end of a period of 60 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.*

\* \* \* \* \*  
(5) *For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.*

\* \* \* \* \*

## TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

\* \* \* \* \*

### Subtitle E—Other Matters

\* \* \* \* \*

#### SEC. 845. AUTHORITY OF THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

(a) \* \* \*

\* \* \* \* \*

(d) APPROPRIATE USE OF AUTHORITY.—(1) The Secretary of Defense shall ensure that no official of an agency enters into a transaction (other than a contract, grant, or cooperative agreement) for a prototype project under the authority of this section unless—

(A) \* \* \*

(B) no nontraditional defense contractor is participating to a significant extent in the prototype project, but at least one of the following circumstances exists:

(i) \* \* \*

(ii) The senior procurement executive for the agency (as designated for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a contract.

\* \* \* \* \*

**DIVISION B—MILITARY CONSTRUCTION  
AUTHORIZATIONS**

\* \* \* \* \*

**TITLE XXIX—DEFENSE BASE CLOSURE  
AND REALIGNMENT**

**Subtitle A—Base Closure Community  
Assistance**

\* \* \* \* \*

**SEC. 2915. TRANSITION COORDINATORS FOR ASSISTANCE TO COM-  
MUNITIES AFFECTED BY THE CLOSURE OF INSTALLA-  
TIONS.**

(a) \* \* \*

\* \* \* \* \*

(c) RESPONSIBILITIES.—A transition coordinator designated with respect to an installation shall—

(1) \* \* \*

\* \* \* \* \*

(10) assist the Secretary of Defense in identifying real property or personal property at the installation that may be utilized to meet the needs of the homeless by consulting with the Secretary of Housing and Urban Development and the local lead agency of the homeless, if any, referred to in section 210(b) of the [Stewart B. McKinney Homeless Assistance Act] *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11320(b)) for the State in which the installation is located.

\* \* \* \* \*

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**SECTION 8102 OF THE DEPARTMENT OF DEFENSE  
APPROPRIATIONS ACT, 2001**

SEC. 8102. (a) \* \* \*

(b) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive [Milestone I] *Milestone B* approval, [Milestone II] *Milestone C* approval, or [Milestone III] *full rate production* approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

\* \* \* \* \*

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**SECTION 4202 OF THE CLINGER-COHEN ACT OF 1996**

**SEC. 4202. APPLICATION OF SIMPLIFIED PROCEDURES TO CERTAIN  
COMMERCIAL ITEMS.**

(a) \* \* \*

\* \* \* \* \*

(e) EFFECTIVE DATE.—The authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures authorized by section 2304(g)(1) of title 10, United States Code, section 303(g)(1) of the Federal Property and Administrative Services Act of 1949, and section 31(a) of the Office of Federal Procurement Policy Act, as amended by this section, shall expire January 1, **[2002] 2004**. Contracts may be awarded pursuant to solicitations that have been issued before such authority expires, notwithstanding the expiration of such authority.

**SECTION 9005 OF THE DEPARTMENT OF DEFENSE  
APPROPRIATIONS ACT, 1993**

**[SEC. 9005.** During the current fiscal year and hereafter, no part of any appropriation or any other funds available to the Department of Defense, except for purchases for amounts not greater than the simplified acquisition threshold covered by section 2304(g) of title 10, United States Code, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the

United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.】

**SECTION 8109 OF THE DEPARTMENT OF DEFENSE  
APPROPRIATIONS ACT, 1997**

【SEC. 8109. In applying section 9005 of the Department of Defense Appropriations Act, 1993, Public Law 102-396 (10 U.S.C. 2241 note), during the current fiscal year and thereafter—

【(1) the term “synthetic fabric and coated synthetic fabric” shall be deemed to include all textile fibers and yarns that are for use in such fabrics; and

【(2) such section shall be treated, notwithstanding section 34 of Public Law 93-400 (41 U.S.C. 430), as being applicable to contracts and subcontracts for the procurement of commercial items that are articles or items, specialty metals, or tools covered by that section 9005.】

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL  
YEAR 1998**

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF  
DEFENSE AUTHORIZATIONS**

\* \* \* \* \*

**TITLE X—GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle G—Other Matters**

\* \* \* \* \*

**SEC. 1083. PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE  
KOREAN WAR.**

(a) \* \* \*

\* \* \* \* \*

(c) 【NAMES】 *NAME* AND SYMBOLS.—The Secretary of Defense shall have the sole and exclusive right to use the name “The United States of America Korean War Commemoration”, and such

seal, emblems, and badges incorporating such name as the Secretary may lawfully adopt. Nothing in this section may be construed to supersede rights that are established or vested before the date of the enactment of this Act.

\* \* \* \* \*

**TITLE XIII—ARMS CONTROL AND RELATED MATTERS**

\* \* \* \* \*

**SEC. 1302. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

(a) FUNDING LIMITATION.—(1) Except as provided in paragraph (2), funds available to the Department of Defense may not be obligated or expended for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems below the specified levels:

(A) \* \* \*

\* \* \* \* \*

[(D) 50 Peacekeeper intercontinental ballistic missiles.]

\* \* \* \* \*

**DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

\* \* \* \* \*

**TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

\* \* \* \* \*

**SEC. 3305. DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.**

(a) DISPOSAL REQUIRED.—Subject to subsections (b) and (c), the President shall dispose of cobalt contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(1) \$20,000,000 during [fiscal year 2003] *the two-fiscal year period ending September 30, 2003*;

\* \* \* \* \*

**DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990**

\* \* \* \* \*

**SEC. 2905. IMPLEMENTATION**

(a) \* \* \*

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) \* \* \*  
 \* \* \* \* \*  
 (4)(A) \* \* \*  
 \* \* \* \* \*  
 (E)(i) \* \* \*  
 \* \* \* \* \*

*(v) Notwithstanding clause (iii) or chapter 137 of title 10, United States Code, if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—*

- (I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or*
- (II) firefighting or security-guard functions.*

\* \* \* \* \*  
 (6)(A) Except as provided in this paragraph, nothing in this section shall limit or otherwise affect the application of the provisions of the **Stewart B. McKinney Homeless Assistance Act** *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11301 et seq.) to military installations closed under this part. For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).

**SEC. 2910. DEFINITIONS**

As used in this part:

(1) \* \* \*  
 \* \* \* \* \*  
 (11) The term “representative of the homeless” has the meaning given such term in section 501(i)(4) of the **Stewart B. McKinney Homeless Assistance Act** *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11411(i)(4)).  
 \* \* \* \* \*

---

**SECTION 204 OF THE DEFENSE AUTHORIZATION AMENDMENTS AND BASE CLOSURE AND REALIGNMENT ACT**

**SEC. 204. IMPLEMENTATION**

(a) \* \* \*  
 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) \* \* \*  
 \* \* \* \* \*



(4)(A) \* \* \*

\* \* \* \* \*

*(E)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.*

*(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.*

*(iii) A lease under clause (i) may not require rental payments by the United States.*

*(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.*

*(v) Notwithstanding clause (iii) or chapter 137 of title 10, United States Code, if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—*

*(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or*

*(II) firefighting or security-guard functions.*

**[(E)]** *(F) The transfer of personal property under subparagraph (A) shall not be subject to the provisions of sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484) if the Secretary determines that the transfer of such property is necessary for the effective implementation of a redevelopment plan with respect to the installation at which such property is located.*

**[(F)]** *(G) The provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) shall apply to any transfer of real property under this paragraph.*

**[(G)]** *(H)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or*

reduce any right, title, claim, lien, or demand of the United States, if—

(I) \* \* \*

\* \* \* \* \*

[(H)] (I) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000, at the request of the redevelopment authority concerned, the Secretary shall modify the agreement to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the United States under the agreement.

[(I)] (J) The Secretary may require any additional terms and conditions in connection with a transfer under this paragraph as such Secretary considers appropriate to protect the interests of the United States.

\* \* \* \* \*

(6)(A) Except as provided in this paragraph, nothing in this section shall limit or otherwise affect the application of the provisions of the [Stewart B. McKinney Homeless Assistance Act] *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11301 et seq.) to military installations closed under this title.

\* \* \* \* \*

**SECTION 2 OF THE BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994**

**SEC. 2. DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.**

(a) \* \* \*

\* \* \* \* \*

(e) APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF ACT.—(1) \* \* \*

\* \* \* \* \*

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the [Stewart B. McKinney Homeless Assistance Act] *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11411).

\* \* \* \* \*

**SECTION 1053 OF THE NATIONAL DEFENSE  
AUTHORIZATION ACT FOR FISCAL YEAR 1997**

**SEC. 1053. DISPOSAL OF TRACT OF REAL PROPERTY IN THE DISTRICT OF COLUMBIA.**

(a) DISPOSAL AUTHORIZED.—Notwithstanding title II the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), title VIII of such Act (40 U.S.C. 531 et seq.), section 501 of the [Stewart B. McKinney Homeless Assistance Act] *McKinney-Vento Homeless Assistance Act* (42 U.S.C. 11411), or any other provision of law relating to the management and disposal of real property by the United States, the Armed Forces Retirement Home Board may convey, by sale or otherwise, all right, title, and interest of the United States in a parcel of real property, including improvements thereon, consisting of approximately 49 acres located in Washington, District of Columbia, east of North Capitol Street, and recorded as District Parcel 121/19.

\* \* \* \* \*

**SECTION 1123 OF THE NATIONAL DEFENSE  
AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991**

**SEC. 1123. PROFESSIONAL MILITARY EDUCATION IN JOINT MATTERS**

(a) \* \* \*

(b) STATEMENT OF CONGRESSIONAL POLICY.—As part of the efforts of the Secretary of Defense to improve professional military education, Congress urges, as a matter of policy, and fully expects the Secretary to establish the following:

(1) \* \* \*

(2) A two-phase approach to strengthening the focus on joint matters, as follows:

(A) \* \* \*

(B) Phase II instruction consisting of a follow-on, solely joint curriculum taught at the [Armed Forces Staff College] *Joint Forces Staff College* to officers who are expected to be selected for the joint specialty. The curriculum should emphasize multiple “hands on” exercises and must adequately prepare students to perform effectively from the outset in what will probably be their first exposure to a totally new environment, an assignment to a joint, multi-service organization. Phase II instruction should be structured so that students progress from a basic knowledge of joint matters learned in Phase I to the level of expertise necessary for successful performance in the joint arena.

(3) A sequenced approach to joint education in which the norm would require an officer to complete Phase I instruction before proceeding to Phase II instruction. An exception to the normal sequence should be granted by the Chairman of the Joint Chiefs of Staff only on a case-by-case basis for compelling cause. Officers selected to receive such an exception should be required to demonstrate a basic knowledge of joint matters and other aspects of the Phase I curriculum that qualifies them to meet the minimum requirements established for entry into Phase II instruction without first completing Phase I instruc-

tion. The number of officers selected to attend an offering of the principal course of instruction at the [Armed Forces Staff College] *Joint Forces Staff College* who have not completed Phase I instruction should comprise only a small portion of the total number of officers selected.

\* \* \* \* \*

---

**SECTION 1412 OF THE DEPARTMENT OF DEFENSE  
AUTHORIZATION ACT, 1986**

**SEC. 1412. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS**

(a) \* \* \*

\* \* \* \* \*

(g) PERIODIC REPORTS.—(1) \* \* \*

(2) Each annual report shall include the following:

(A) \* \* \*

\* \* \* \* \*

(C) An accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

(i) \* \* \*

\* \* \* \* \*

(vii) grants to State and local governments to assist those governments in carrying out functions relating to emergency preparedness and response in accordance with subsection [(c)(3)] (c)(4).

\* \* \* \* \*

---

**SECTION 3695 OF TITLE 38, UNITED STATES CODE**

**§ 3695. Limitation on period of assistance under two or more programs**

(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

(1) \* \* \*

\* \* \* \* \*

(5) Chapters 107, 1606, and [1610] 1611 of title 10.

\* \* \* \* \*

---

**SECTION 13 OF THE PEACE CORPS ACT**

**EXPERTS AND CONSULTANTS**

SEC. 13. (a) \* \* \*

(b) Service of an individual as a member of the Council authorized to be established by section 12 of this Act or as an expert or consultant under subsection (a) of this section shall not be consid-

ered as employment or holding of office or position bringing such individual within the provisions of sections 3323(b) and 8344 of title 5, United States Code, section 824 of the Foreign Service Act of 1980 or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities[, subject to section 5532 of title 5, United States Code].

## SECTION 127 OF THE TRADE DEFICIT REVIEW COMMISSION ACT

### TRADE DEFICIT REVIEW COMMISSION

SEC. 127. (a) \* \* \*

\* \* \* \* \*

(g) COMMISSION PERSONNEL MATTERS.—

(1) \* \* \*

\* \* \* \* \*

(6) APPLICABILITY OF CERTAIN PAY [AUTHORITIES.—

[(A) IN GENERAL.—An individual] *AUTHORITIES.*—*An individual* who is a member of the Commission and is an annuitant or otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the Commission is not subject to the provisions of section 8344 or 8468 (whichever is applicable) with respect to such membership.

[(B) UNIFORMED SERVICE.—An individual who is a member of the Commission and is a member or former member of a uniformed service is not subject to the provisions of subsections (b) and (c) of section 5532, United States Code, with respect to membership on the Commission.]

\* \* \* \* \*

## SECTION 28 OF THE ATOMIC ENERGY ACT OF 1954

SEC. 28. APPOINTMENT OF ARMY, NAVY, OR AIR FORCE OFFICERS.—Notwithstanding the provisions of any other law, the officer of the Army, Navy, or Air Force serving as Assistant General Manager for Military Application shall serve without prejudice to his commissioned status as such officer. Any such officer serving as Assistant General Manager for Military Application shall receive in addition to his pay and allowances, including special and incentive pays, for which pay and allowances the Commission shall reimburse his service, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation established for this position. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount

equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay[, subject to section 201 of the Dual Compensation Act].

**NATIONAL NUCLEAR SECURITY ADMINISTRATION ACT**

\* \* \* \* \*

**Subtitle A—Establishment and Organization**

Sec. 3211. Establishment and mission.

\* \* \* \* \*

Sec. 3213A. Principal Deputy Administrator.

\* \* \* \* \*

**Subtitle A—Establishment and Organization**

\* \* \* \* \*

**SEC. 3212. ADMINISTRATOR FOR NUCLEAR SECURITY.**

(a) \* \* \*

\* \* \* \* \*

[(e)] (f) REORGANIZATION AUTHORITY.—Except as provided by subsections (b) and (c) of section 3291:

(1) \* \* \*

\* \* \* \* \*

**SEC. 3213A. PRINCIPAL DEPUTY ADMINISTRATOR.**

(a) *IN GENERAL.*—(1) *There is in the Administration a Principal Deputy Administrator, who is appointed by the President, by and with the advice and consent of the Senate.*

(2) *The Principal Deputy Administrator shall be appointed from among persons who—*

*(A) have extensive background in national security, organizational management, and appropriate technical fields; and*

*(B) are well qualified to manage the nuclear weapons, non-proliferation, and materials disposition programs of the Administration in a manner that advances and protects the national security of the United States.*

(b) *DUTIES.*—*Subject to the authority, direction, and control of the Administrator, the Principal Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe, including the coordination of activities among the elements of the Administration. The Principal Deputy Administrator shall act for, and exercise the powers of, the Administrator when the Administrator is disabled or the position of Administrator is vacant.*

\* \* \* \* \*

**SEC. 3214. DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS.**

(a) \* \* \*

\* \* \* \* \*

[(c) RELATIONSHIP TO LABORATORIES AND FACILITIES.—The head of each national security laboratory and nuclear weapons production facility shall, consistent with applicable contractual obligations, report to the Deputy Administrator for Defense Programs.]

\* \* \* \* \*

**[SEC. 3245. PROHIBITION ON PAY OF PERSONNEL ENGAGED IN CONCURRENT SERVICE OR DUTIES INSIDE AND OUTSIDE ADMINISTRATION.**

[(a) Except as otherwise expressly provided by statute, no funds authorized to be appropriated or otherwise made available for the Department of Energy may be obligated or utilized to pay the basic pay of an officer or employee of the Department of Energy who—

[(1) serves concurrently in a position in the Administration and a position outside the Administration; or

[(2) performs concurrently the duties of a position in the Administration and the duties of a position outside the Administration.

[(b) The provision of this section shall take effect 60 days after the date of enactment of this section.]

**SECTION 5 OF THE MULTINATIONAL FORCE AND OBSERVERS PARTICIPATION RESOLUTION**

**NONREIMBURSED COSTS**

SEC. 5. (a) \* \* \*

\* \* \* \* \*

*(d)(1) The United States may use contractors to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the United States Armed Forces.*

*(2) Notwithstanding subsections (a) and (b) and section 7(b), support by a contractor under this subsection may be provided without reimbursement, whenever the President determines that such action enhances or supports the national security interests of the United States.*

**SECTION 1505 OF THE WEAPONS OF MASS DESTRUCTION CONTROL ACT OF 1992**

**SEC. 1505. INTERNATIONAL NONPROLIFERATION INITIATIVE.**

(a) \* \* \*

\* \* \* \* \*

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each [quarter of a] fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect, the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth [(for the preceding quarter and cumulatively)] *for the preceding fiscal year—*

(A) \* \* \*

\* \* \* \* \*

(f) TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year ~~2001~~ 2002.

**MILITARY CONSTRUCTION AUTHORIZATION ACT FOR  
FISCAL YEAR 2001**

\* \* \* \* \*

**DIVISION B—MILITARY CONSTRUCTION  
AUTHORIZATIONS**

\* \* \* \* \*

**TITLE XXI—ARMY**

**SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama .....	Redstone Arsenal .....	\$39,000,000
Alaska .....	Fort Richardson .....	\$3,000,000
Arizona .....	Fort Huachuca .....	\$4,600,000
Arkansas .....	Pine Bluff Arsenal .....	\$2,750,000
California .....	Fort Irwin .....	\$31,000,000
	Presidio, Monterey .....	\$2,600,000
Georgia .....	Fort Benning .....	\$15,800,000
	Fort Gordon .....	\$2,600,000
Hawaii .....	Pohakoula Training Facility	\$32,000,000
	Schofield Barracks .....	\$43,800,000
Kansas .....	Fort Riley .....	\$22,000,000
Kentucky .....	Fort Knox .....	\$550,000
Maryland .....	Fort Meade .....	\$19,000,000
Missouri .....	Fort Leonard Wood .....	<b>[\$65,400,000]</b>
		\$69,400,000
New Jersey .....	Picatinny Arsenal .....	\$5,600,000
New York .....	Fort Drum .....	<b>[\$18,000,000]</b>
		\$21,000,000
North Carolina .....	Fort Bragg .....	\$222,200,000
	Sunny Point Army Terminal	\$2,300,000
Ohio .....	Columbus .....	\$1,832,000
Pennsylvania .....	Carlisle Barracks .....	\$10,500,000
	New Cumberland Army	\$3,700,000
	Depot.	
Texas .....	Fort Bliss .....	\$26,000,000



Army: Inside the United States—Continued

State	Installation or location	Amount
Virginia .....	Fort Hood .....	<b>[\$36,492,000]</b> \$39,492,000
	Red River Army Depot .....	\$800,000
	Fort Evans .....	\$4,450,000
	Total: .....	<b>[\$615,974,000]</b> \$623,074,000
* * *	* * *	* * *

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2000, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of **[\$1,925,344,000]** \$1,935,744,000, as follows:

(1) \* \* \*

\* \* \* \* \*

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) \* \* \*

(2) **[\$22,600,000]** \$27,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a Basic Training Complex at Fort Leonard Wood, Missouri);

(3) **[\$10,000,000]** \$13,000,000 (the balance of the amount authorized under section 2101(a) for construction of a Multipurpose Digital Training Range at Fort Hood, Texas);

\* \* \* \* \*

(6) **[\$6,000,000]** \$9,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a battle simulation center at Fort Drum, New York); and

\* \* \* \* \*

**TITLE XXIII—AIR FORCE**

**SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama .....	Maxwell Air Force Base .....	\$3,825,000

## Air Force: Inside the United States—Continued

State	Installation or location	Amount
Alaska .....	Cape Romanzof .....	\$3,900,000
* * *	* * *	* *
New Jersey .....	McGuire Air Force Base .....	【\$29,772,000】
* * *	* * *	\$32,972,000
Wyoming .....	F.E. Warren Air Force Base ....	\$25,720,000
	Total: .....	【\$745,755,000】
		\$748,955,000

\* \* \* \* \*

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

(a) \* \* \*

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) \* \* \*

(2) 【\$9,400,000】 \$12,600,000 (the balance of the amount authorized under section 2301(a) for the construction of an air freight terminal and base supply complex at McGuire Air Force Base, New Jersey).

\* \* \* \* \*

**TITLE XXIV—DEFENSE AGENCIES****SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

## Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization .....	Aberdeen Proving Ground .....	\$3,100,000
* * *	* * *	* *
TRICARE Management Activity .....	Edwards Air Force Base, California .....	\$17,900,000
	Marine Corps Base, Camp Pendleton, California .....	【\$14,150,000】
		\$15,300,000
	Eglin Air Force Base, Florida	\$37,600,000
	Fort Drum, New York .....	\$1,400,000
	Patrick Air Force Base, Florida .....	\$2,700,000

Defense Agencies: Inside the United States—Continued

Agency	Installation or location	Amount
	Tyndall Air Force Base, Florida .....	\$7,700,000
	William Beaumont Medical Center, Texas .....	\$4,200,000
	Total: .....	<b>[\$256,906,000]</b>
		\$258,056,000

\* \* \* \* \*

### Subtitle D—Land Conveyances

\* \* \* \* \*

#### Part II—Navy Conveyances

\* \* \* \* \*

**SEC. 2853. LAND CONVEYANCE, NAVAL COMPUTER AND TELECOMMUNICATIONS STATION, CUTLER, MAINE.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine, *any or* all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 263 acres located in Washington County, Maine, and known as the Naval Computer and Telecommunications Station, Cutler, Maine.

\* \* \* \* \*

### Subtitle E—Other Matters

\* \* \* \* \*

**SEC. 2886. ESTABLISHMENT OF WORLD WAR II MEMORIAL ON GUAM.**

(a) ESTABLISHMENT REQUIRED.—The Secretary of Defense shall establish on Federal lands near the Fena Caves, *and on Federal lands near Yigo*, in Guam a suitable memorial intended to honor those Guamanian civilians who were killed during the occupation of Guam during World War II and to commemorate the liberation of Guam by the United States Armed Forces in 1944.

(b) MAINTENANCE OF [MEMORIAL] MEMORIALS.—The Secretary of Defense shall be responsible for the maintenance of the [memorial] *memorials* established pursuant to subsection (a).

(c) CONSULTATION.—In designing and building the [memorial] *memorials* and selecting the specific location for the [memorial] *memorials*, the Secretary of Defense shall consult with the American Battle Monuments Commission established under chapter 21 of title 36, United States Code.

\* \* \* \* \*



**MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2000**

\* \* \* \* \*

**TITLE XXII—NAVY**

**SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona .....	Marine Corps Air Station, Yuma	\$17,020,000
* * *	Navy Detachment, Camp Navajo	\$7,560,000
Hawaii .....	Camp H.M. Smith .....	<b>[\$86,050,000]</b>
* * *	* * *	\$89,050,000
Washington .....	Naval Ordnance Center Pacific	
	Division Detachment, Port	
	Hadlock .....	\$3,440,000
	Naval Undersea Warfare Center,	
	Keyport .....	\$6,700,000
	Puget Sound Naval Shipyard,	
	Bremerton .....	\$15,610,000
	Strategic Weapons Facility Pa-	
	cific, Bremerton .....	\$6,300,000
	Total .....	<b>[\$817,230,000]</b>
		\$820,230,000

\* \* \* \* \*

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1999, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of **[\$2,108,087,000]** \$2,111,087,000 as follows:

(1) \* \* \*

\* \* \* \* \*

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) \* \* \*

\* \* \* \* \*

(3) **[\$70,180,000]** *\$73,180,000* (the balance of the amount authorized under section 2201(a) for the construction of the Commander-in-Chief Headquarters, Pacific Command, Camp H.M. Smith, Hawaii).

\* \* \* \* \*

## TITLE XXIV—DEFENSE AGENCIES

### SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization .....	Blue Grass Army Depot, Kentucky.	<b>[\$206,800,000]</b> <i>\$254,030,000</i>
* * *	* * *	* *
TRICARE Management Agency .....	Andrews Air Force Base, Maryland.	\$3,000,000
	Cheatham Annex, Virginia .....	\$1,650,000
	Davis-Monthan Air Force Base, Arizona .....	\$10,000,000
	Fort Lewis, Washington .....	\$5,500,000
	Fort Riley, Kansas .....	\$6,000,000
	Fort Sam Houston, Texas .....	\$5,800,000
	Fort Wainwright, Alaska .....	\$133,000,000
	Los Angeles Air Force Base, California .....	\$13,600,000
	Marine Corps Air Station, Cherry Point, North Carolina .....	\$3,500,000
	Moody Air Force Base, Georgia ..	\$1,250,000
	Naval Air Station, Jacksonville, Florida .....	\$3,780,000
	Naval Air Station, Norfolk, Virginia.	\$4,050,000
	Naval Air Station, Patuxent River, Maryland .....	\$4,150,000
	Naval Air Station, Pensacola, Florida .....	\$4,300,000
	Naval Air Station, Whidbey Island, Washington .....	<b>[\$4,700,000]</b> <i>\$6,600,000</i>
	Patrick Air Force Base, Florida ..	\$1,750,000
	Travis Air Force Base, California	\$7,500,000
	Wright-Patterson Air Force Base, Ohio .....	\$3,900,000

Defense Agencies: Inside the United States—Continued

Agency	Installation or location	Amount
	Total .....	<b>[\$587,420,000]</b> \$636,550,000
*	*	*

**SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) \* \* \*

(b) **LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) \* \* \*

\* \* \* \* \*

(3) **[\$184,000,000]** \$231,230,000 (the balance of the amount authorized under section 2401(a) for the construction of a chemical demilitarization facility at Blue Grass Army Depot, Kentucky).

\* \* \* \* \*

**TITLE XXVIII—GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle D—Land Conveyances**

**Part I—Army Conveyances**

\* \* \* \* \*

**SEC. 2832. LAND EXCHANGE, ROCK ISLAND ARSENAL, ILLINOIS.**

(a) **CONVEYANCE AUTHORIZED.**—(1) The Secretary of the Army may convey to the City of Moline, Illinois (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately .3 acres at the Rock Island Arsenal for the purpose of permitting the City to construct a new entrance and exit ramp for the bridge that crosses the southeast end of the island containing the Arsenal.

(2) *The Secretary may convey to the City all right, title, and interest of the United States in and to an additional parcel of real property, including improvements thereon, at the Rock Island Arsenal consisting of approximately .513 acres.*

(b) **CONSIDERATION.**—(1) As consideration for the conveyance under subsection (a)(1), the City shall convey to the Secretary all right, title, and interest of the City in and to a parcel of real property consisting of approximately .2 acres and located in the vicinity of the parcel to be conveyed under subsection (a)(1).

(2) *As consideration for the conveyance under subsection (a)(2), the City shall convey to the Secretary all right, title, and interest of*

*the City in and to a parcel of real property consisting of approximately .063 acres and construct on the parcel, at the City's expense, a new access ramp to the Rock Island Arsenal.*

\* \* \* \* \*

## **Subtitle F—Expansion of Arlington National Cemetery**

### **SEC. 2881. TRANSFER FROM NAVY ANNEX, ARLINGTON, VIRGINIA.**

(a) \* \* \*

(b) **USE OF LAND.**—[(1) Subject to paragraph (2), the] *The* Secretary of the Army shall incorporate the Navy Annex property transferred under subsection (a) into Arlington National Cemetery.

[(2) The Secretary of Defense may reserve not to exceed 10 acres of the Navy Annex property (of which not more than six acres may be north of the existing Columbia Pike) as a site for—

[(A) a National Military Museum, if such site is recommended for such purpose by the Commission on the National Military Museum established under section 2901; and

[(B) such other memorials that the Secretary of Defense considers compatible with Arlington National Cemetery.]

\* \* \* \* \*

[(d) **ESTABLISHMENT OF MASTER PLAN.**—(1) The Secretary of Defense shall establish a master plan for the use of the Navy Annex property transferred under subsection (a).

[(2) The master plan shall take into account (A) the report submitted by the Secretary of the Army on the expansion of Arlington National Cemetery required at page 787 of the Joint Explanatory Statement of the Committee of Conference to accompany the bill H.R. 3616 of the One Hundred Fifth Congress (House Report 105–436 of the 105th Congress), and (B) the recommendation (if any) of the Commission on the National Military Museum to use a portion of the Navy Annex property as the site for the National Military Museum.

[(3) The master plan shall be established in consultation with the National Capital Planning Commission and only after coordination with appropriate officials of the Commonwealth of Virginia and of the County of Arlington, Virginia, with respect to matters pertaining to real property under the jurisdiction of those officials located in or adjacent to the Navy Annex property, including assessments of the effects on transportation, infrastructure, and utilities in that county by reason of the proposed uses of the Navy Annex property under subsection (b).

[(4) Not later than 180 days after the date on which the Commission on the National Military Museum submits to Congress its report under section 2903, the Secretary of Defense shall submit to Congress the master plan established under this subsection.

[(e) **IMPLEMENTATION OF MASTER PLAN.**—The Secretary of Defense may implement the provisions of the master plan at any time after the Secretary submits the master plan to Congress.

[(f) **LEGAL DESCRIPTION.**—In conjunction with the development of the master plan required by subsection (d), the Secretary of De-

fense shall determine the exact acreage and legal description of the portion of the Navy Annex property reserved under subsection (b)(2) and of the portion transferred under subsection (a) for incorporation into Arlington National Cemetery.】

【(g)】 (d) REPORTS.—(1) \* \* \*

\* \* \* \* \*

【(h)】 (e) DEADLINE.—The Secretary of Defense shall complete the transfer of administrative jurisdiction required by subsection (a) not later than the earlier of—

(1) January 1, 2010; or

(2) the date when the Navy Annex property is no longer required (as determined by the Secretary) for use as temporary office space due to the renovation of the Pentagon.

\* \* \* \* \*

### TITLE XXIX—COMMISSION ON NATIONAL MILITARY MUSEUM

\* \* \* \* \*

#### SEC. 2902. DUTIES OF COMMISSION.

(a) \* \* \*

\* \* \* \* \*

【(d) REQUIREMENTS FOR LOCATION ON NAVY ANNEX PROPERTY.—In the case of a recommendation under subsection (c)(1) to authorize construction of a national military museum on the Navy Annex property authorized for reservation for such purpose by section 2871(b), the design of the national military museum on such property shall be subject to the following requirements:

【(1) The design shall be prepared in consultation with the Superintendent of Arlington National Cemetery.

【(2) The design may not provide for access by vehicles to the national military museum through Arlington National Cemetery.】

(d) PROHIBITION ON CONSIDERATION OF ARLINGTON NAVAL ANNEX.—*The Commission may not consider any portion of the Navy Annex property described in section 2881 as a possible site for a national military museum.*

\* \* \* \* \*

### MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1999

\* \* \* \* \*



## TITLE XXIV—DEFENSE AGENCIES

### SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization .....	Aberdeen Proving Ground, Maryland .....	<b>[\$186,350,000]</b> \$223,950,000
	Newport Army Depot, Indiana .....	\$191,550,000
* * *	* * *	* *
Special Operations Command .....	Eglin Auxiliary Field 3, Florida .....	\$7,310,000
	Eglin Auxiliary Field 9, Florida .....	\$2,400,000
	Fort Campbell, Kentucky .....	\$15,000,000
	MacDill Air Force Base, Florida .....	\$8,400,000
	Naval Amphibious Base, Coronado, California .....	\$3,600,000
	Stennis Space Center, Mississippi .....	\$5,500,000
	Total .....	<b>[\$690,016,000]</b> \$727,616,000

\* \* \* \* \*

### SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) \* \* \*

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) \* \* \*

\* \* \* \* \*

(3) **[\$158,000,000]** \$195,600,000 (the balance of the amount authorized under section 2401(a) for the construction of the Ammunition Demilitarization Facility at Aberdeen Proving Ground, Maryland).

\* \* \* \* \*

**Subtitle D—Land Conveyances**

\* \* \* \* \*

**PART II—NAVY CONVEYANCES**

**SEC. 2851. CONVEYANCE OF EASEMENT, MARINE CORPS BASE, CAMP PENDLETON, CALIFORNIA.**

(a) \* \* \*

\* \* \* \* \*

*(g) LIMITATION ON CONSTRUCTION OF ROADS OR HIGHWAYS.—If a State law enacted after January 1, 2001, directly or indirectly prohibits or restricts the construction or approval of a road or highway within the easement granted under this section, the State law shall not be effective with respect to such construction or approval.*

\* \* \* \* \*

**SECTION 2401 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995**

**SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Inside the United States**

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction .....	Anniston Army Depot, Alabama .....	\$5,000,000
	Pine Bluff Arsenal, Arkansas .....	<b>【\$154,400,000】</b>
		<i>\$177,400,000</i>
	Tooele Army Depot, Utah .....	\$4,000,000
	Umatilla Army Depot, Oregon .....	\$193,377,000
* * *	* * *	* * *

**SECTION 2835 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1998**

**SEC. 2835. LAND CONVEYANCES, FORT DIX, NEW JERSEY.**

(a) \* \* \*

\* \* \* \* \*

(c) REVERSION.—(1) \* \* \*

\* \* \* \* \*

(3) *Notwithstanding paragraphs (1) or (2), the Borough and Board may exchange between each other, without the consent of the Secretary, all or any portion of the property conveyed under subsection (a) so long as the property continues to be used by the grantees for economic development or educational purposes.*

\* \* \* \* \*

**SECTION 136 OF THE MILITARY CONSTRUCTION  
APPROPRIATIONS ACT, 2001**

SEC. 136. (a) \* \* \*

\* \* \* \* \*

(m) *INDEMNIFICATION OF TRANSFEREES.—(1) With respect to the disposal of real property under subsection (e) at the Base as part of the Project, the Secretary shall hold harmless, defend, and indemnify in full the Community and other persons and entities described in paragraph (2) from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant or contaminant, or petroleum or petroleum derivative as a result of Department of Defense activities at the Base.*

(2) *The persons and entities referred to in paragraph (1) are the following:*

(A) *The Community (including any officer, agent, or employee of the Community) that acquires ownership or control of any real property at the Base as described in paragraph (1).*

(B) *The State of Texas or any political subdivision of the State (including any officer, agent, or employee of the State or political subdivision) that acquires such ownership or control.*

(C) *Any other person or entity that acquires such ownership or control.*

(D) *Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).*

(3) *To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.*

(4) *No indemnification may be afforded under this subsection unless the person or entity making a claim for indemnification—*

(A) *notifies the Department of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Department of Defense;*

(B) *furnishes to the Department of Defense copies of pertinent papers the entity receives;*

(C) *furnishes evidence or proof of any claim, loss, or damage covered by this subsection; and*

*(D) provides, upon request by the Department of Defense, access to the records and personnel of the entity for purposes of defending or settling the claim or action.*

*(5) In any case in which the Secretary determines that the Department of Defense may be required to make indemnification payments to a person under this subsection for any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage referred to in paragraph (1), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage. If the person to whom the Department of Defense may be required to make indemnification payments does not allow the Secretary to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this subsection.*

*(6) For purposes of paragraph (4)(A), the date on which a claim accrues is the date on which the plaintiff knew (or reasonably should have known) that the personal injury or property damage referred to in paragraph (1) was caused or contributed to by the release or threatened release of a hazardous substance, pollutant or contaminant, or petroleum or petroleum derivative as a result of Department of Defense activities at the Base.*

*(7) Nothing in this subsection shall be construed as affecting or modifying in any way section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).*

*(8) In this subsection, the terms "facility", "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, respectively (42 U.S.C. 9601).*

**[(m)] (n) DEFINITIONS.—**In this section:

(1) \* \* \*

\* \* \* \* \*

(9) The term "Secretary" means the Secretary of the Air Force or the Secretary's designee, who shall be a civilian official of the Department appointed by the President with the advice and consent of the Senate.

(10) The term "State" means the State of Texas.

**[(n) EFFECTIVE DATE.—**This section becomes effective immediately upon enactment of this Act.]

\* \* \* \* \*

**SECTION 5 OF THE ACT OF SEPTEMBER 2, 1957**

(PUBLIC LAW 85-258)

AN ACT To direct the Secretary of the Navy or his designee to convey a two thousand four hundred seventy-seven and forty-three one-hundredths acre tract of land, avigation, and sewer easements in Tarrant and Wise Counties, Texas, situated about twenty miles northwest of the city of Fort Worth, Texas, to the State of Texas.

SEC. 5. Nothing in this Act shall prevent the State of Texas from disposing of or salvaging buildings and improvements now located

on the land to be conveyed, or leasing, licensing or granting easements into and on the lands and improvements, except that the exercise of such rights shall not impair the use of the lands and improvements for the purpose set forth in section 4 of this Act, including preservation of the aviation potential of the property and that any revenues derived from such disposal, salvaging, leasing, licensing, or granting of easements shall be expended solely by the State of Texas for the protection, maintenance, and operation of the facility as a training center or for the protection, maintenance, and operation of other Texas National Guard facilities.

\* \* \* \* \*

**OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996**

\* \* \* \* \*

**DIVISION I**

**TITLE I—THE PRESIDIO OF SAN FRANCISCO**

\* \* \* \* \*

**SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.**

(a) \* \* \*

\* \* \* \* \*

(d) FINANCIAL AUTHORITIES.—(1) To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(A) \* \* \*

\* \* \* \* \*

(3) The aggregate amount of obligations issued under [paragraph (3) of] paragraph (2) of this subsection which are outstanding at any one time may not exceed **[\$50,000,000]** \$150,000,000.

\* \* \* \* \*

**SEC. 107. AUTHORITY TO LEASE CERTAIN HOUSING UNITS WITHIN THE PRESIDIO.**

(a) AVAILABILITY OF HOUSING UNITS FOR ARMY LEASE.—The Trust shall make available for lease, to those persons designated by the Secretary of the Army, housing units specified in subsection (b).

(b) HOUSING UNITS.—The housing units referred to in this section are identified as follows:

- (1) Liggett 715 A&B, 716 A&B, 717 A&B, 718 A&B, 719 A&B, and 720 A&B.
- (2) West Washington 1401 A&B, 1403 A&B, and 1405 B.
- (3) Infantry Terrace 340, 341, 342, and 343.

(4) *Wright Loop 1332.*

(c) *REPLACEMENT OF DAMAGED OR DESTROYED HOUSING UNITS.—In the event of significant damage to or destruction of a housing unit specified in subsection (b), the Trust shall provide a substitute housing unit of equal size and accommodation.*

(d) *LEASE AMOUNT.—The monthly amount charged by the Trust for the lease of a housing unit, including utilities and municipal services, under this section shall not exceed the monthly rate of the basic allowance for housing that the occupant of the housing unit is entitled to receive under section 403 of title 37, United States Code. The Department of the Army shall have no other fiscal obligations with regard to the housing units specified in subsection (b) or housing units replaced pursuant to subsection (c).*

(e) *RELATIONS TO TRUST FUNDING LIMITATIONS.—The Trust shall comply with this section without regard to the requirement of section 105(b) that the Trust achieve financial self-sufficiency.*

\* \* \* \* \*

**SECTION 3139 OF THE STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999**

**SEC. 3139. HANFORD WASTE TANK CLEANUP PROGRAM REFORMS.**

(a) \* \* \*

\* \* \* \* \*

[(f) *TERMINATION.—(1) The Office shall terminate 5 years after the commencement of operations under this section unless the Secretary determines that termination on that date would disrupt effective management of the Hanford Tank Farm operations.*

[(2) *The Secretary shall notify, in writing, the committees referred to in subsection (d) of a determination under paragraph (1).*]

(f) *TERMINATION.—(1) The Office shall terminate on the later to occur of the following dates:*

(A) *September 30, 2010.*

(B) *The date on which the Assistant Secretary of Energy for Environmental Management determines, in consultation with the head of the Office, that continuation of the Office is no longer necessary to carry out the responsibilities of the Department of Energy under the Tri-Party Agreement.*

(2) *The Assistant Secretary shall notify, in writing, the committees referred to in subsection (d) of a determination under paragraph (1).*

(3) *In this subsection, the term “Tri-Party Agreement” means the Hanford Federal Facility Agreement and Consent Order entered into among the Department of Energy, the Environmental Protection Agency, and the State of Washington Department of Ecology.*

\* \* \* \* \*

**MERCHANT MARINE ACT, 1936**

\* \* \* \* \*

## TITLE XI—FEDERAL SHIP MORTGAGE INSURANCE

\* \* \* \* \*

**SEC. 1109. DEPOSIT FUND.**

(a) *ESTABLISHMENT OF DEPOSIT FUND.*—There is established in the Treasury a deposit fund for purposes of this section. The Secretary may, in accordance with an agreement under subsection (b), deposit into and hold in the deposit fund cash belonging to an obligor to serve as collateral for a guarantee under this title made with respect to the obligor.

(b) *AGREEMENT.*—

(1) *IN GENERAL.*—The Secretary and an obligor shall enter into a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the deposit fund established by subsection (a).

(2) *TERMS.*—The agreement shall contain such terms and conditions as are required under this section and such additional terms as are considered by the Secretary to be necessary to protect fully the interests of the United States.

(3) *SECURITY INTEREST OF UNITED STATES.*—The agreement shall include terms that grant to the United States a security interest in all amounts deposited into the deposit fund.

(c) *INVESTMENT.*—The Secretary may invest and reinvest any part of the amounts in the deposit fund established by subsection (a) in obligations of the United States with such maturities as ensure that amounts in the deposit fund will be available as required for purposes of agreements under subsection (b). Cash balances of the deposit fund in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

(d) *WITHDRAWALS.*—

(1) *IN GENERAL.*—The cash deposited into the deposit fund established by subsection (a) may not be withdrawn without the consent of the Secretary.

(2) *USE OF INCOME.*—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the deposit fund in accordance with the terms of the agreement with the obligor under subsection (b).

(3) *RETENTION AGAINST DEFAULT.*—The Secretary may retain and offset any or all of the cash of an obligor in the deposit fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.

## TITLE XII—WAR RISK INSURANCE

SEC. 1201. As used in this title—

(a) \* \* \*

\* \* \* \* \*

[(c) The term “war risks” includes to such extent as the Secretary may determine all or any part of those losses which are excluded from marine insurance coverage under a “free of capture and seizure” clause, or analogous clauses.]

*(c) The term "war risks" includes to such extent as the Secretary may determine—*

*(1) all or any part of any loss that is excluded from marine insurance coverage under a "free of capture or seizure" clause, or under analogous clauses; and*

*(2) other losses from hostile acts, including confiscation, expropriation, nationalization, or deprivation.*

\* \* \* \* \*



## ADDITIONAL VIEWS

We all have our own views on specific issues relating to ballistic missile defense: the nature and urgency of the threat; the technological promise of ballistic missile defense (BMD) systems in development; the appropriate level of funding for these BMD systems; what changes, if any, to make to the ABM Treaty and what to do if such revisions are not agreed to mutually by the U.S. and Russia; and other issues as well.

However, we all question the wisdom of increasing ballistic missile defense funding nearly 60 percent when so many other defense requirements also need to be addressed. The Service Chiefs have identified \$32.5 billion in unfunded requirements for 2002 alone. The shipbuilding rate is about half of what it needs to be to sustain our current naval force. The National Guard and Reserve procurement accounts are well funded below the level needed to equip them properly. Army readiness is still below its objectives. Military housing across the country needs to be upgraded and military pay needs to be raised higher. The list goes on.

The Spratt Amendment was offered on behalf of all Democrats to shift \$985 million—one-third of the proposed \$3 billion increase and 12% of the total request—from selected ballistic missile defense accounts and into items that meet shortfalls for the National Guard and Army Reserve, the Navy and Marine Corps, the Air Force, and Department of Energy nonproliferation programs. The amendment did not affect systems that counter theater ballistic missile threats or the ground-based national missile defense system, and it provided funding to improve flight testing as the Administration requested. The amendment thus provided for a \$2.0 billion (37.5 percent) increase for BMD programs (compared to the Administration's request).

The amendment did not fund the Administration's request to build and station five "emergency" interceptors at Ft. Greely or its proposal to upgrade the Cobra Dane radar. These requests are not related to flight testing, but rather for what appears to be pre-deployment operational non-flight testing. Given the early stages of development of the ground-based system and the controversial nature of deploying a system, we consider the request to fund these items premature.

The amendment also cut \$120 million in addition to the \$40 million the majority cut from space-based BMD programs, and reduced funding to transform the Navy Theater Wide system into a national missile defense system. The ability to sustain these efforts beyond 2002 is seriously in doubt, and we believe the items we identified to receive the funding cut for BMD are all higher priority defense needs.

We are disappointed the Spratt amendment was not adopted, but we hope to continue to work together with the majority in a bipar-

tisan fashion during the remainder of the legislative process to properly balance the need to defend against ballistic missiles with the other pressing funding requirements faced by our men and women in uniform.

IKE SKELTON.  
JOHN SPRATT.  
LANE EVANS.  
SILVESTRE REYES.  
THOMAS H. ALLEN.  
JOHN B. LARSON.  
LORETTA SANCHEZ.  
JAMES R. LANGEVIN.  
RICK LARSEN.  
ELLEN O. TAUSCHER.  
ROBERT E. ANDREWS.  
CYNTHIA A. MCKINNEY.  
ADAM SMITH.  
JIM TURNER.  
ROD R. BLAGOJEVICH.  
SUSAN A. DAVIS.  
SOLOMON P. ORTIZ.  
JAMES H. MALONEY.  
MARTY MEEHAN.  
VIC SNYDER.  
ROBERT A. BRADY.  
MIKE THOMPSON.  
NEIL ABERCROMBIE.  
CIRO D. RODRIGUEZ.  
BARON P. HILL.

## ADDITIONAL VIEWS OF HON. LANE EVANS

While I voted for the Committee's mark of the FY02 Department of Defense Authorization Act, I was severely disappointed that the Subcommittee on Military Research and Development decided to add \$5 million to the EMD phase of the 155mm Lightweight Howitzer program. Considering the extensive mismanagement and technical difficulties this program has experienced, it is mystifying why this Committee decided to add funding to this program.

Earlier this year, the bipartisan, Iowa/Illinois Quad Cities Congressional delegation called for the termination of the program. We called for this after becoming overwhelmingly convinced that this program will not result in the type of quality weapon that our soldiers will need. The evidence is overwhelming. Two consecutive GAO reports have shown that the program is over-budget, behind schedule and beset by serious technical problems.

For example, GAO found that all key program milestones have slipped except one. The production milestone decision has slipped from March 2002 to September 2002. Initial Fielding by the USMC has slipped 8 months to July 2004 (28 months after the originally envisioned date). The cost of the program has also continued to grow. Due to technical problems and changes in the contractor overseeing the program, the estimated cost of the developmental contract has grown \$20.2 million (over 50 percent) since GAO's first report. The developmental contract has almost doubled since the start of the program (from an initial \$33.5 million target price to a current estimate of \$65.8 million.) I am especially troubled by this because the American taxpayer will pick up the bill for any more cost increases in developing the howitzer. This is due to the program office restructuring the contract. Under this agreement, BAE will only contribute \$5 million towards development of two pre-production guns. The Committee's action will only reward mismanagement.

However, the biggest challenge of the program continues to revolve around technical issues that have not been resolved and may not be fixable. Proposed fixes to the three original problems found by GAO—insufficient spade size, instability of the saddle and faulty titanium welds—remain to be conclusively proven effective in live fire testing. Welds have become so problematic that BAE is now considering casting titanium parts instead of welding them together, a major change in the production process and one that may lead to even more problems.

Unfortunately, the second GAO review found new problems on top of these already serious technical challenges. Specifically, the spades cracked, could not be properly removed from the ground, and didn't always work properly in all soil types. In addition, the optical sight continued to break during test firings. Problems this extensive should not be found in the EMD stage of a major pro-

gram. It is clearly a system that is far from any production milestone decision.

The best thing we can do for our soldiers and Marines is to take the money the committee has added to the program and devote it to evaluating alternatives so that we may eventually have an answer for the pressing indirect fire-support needs of both the Army and the Marine Corps. I plan on offering an amendment during floor consideration of the FY02 DOD Authorization Act to do just that.

LANE EVANS.

## ADDITIONAL VIEWS OF HON. TOM ALLEN

### STRATEGIC ARMS FLEXIBILITY

I am pleased that the Committee adopted my amendment to endorse the Administration's request for repeal of the prohibition on the retirement of the 50 Peacekeeper (MX) missiles that are required to be dismantled under the START II Treaty. President Bush has called for further reductions in the U.S. strategic arsenal and for taking nuclear weapons off high alert status. Since this is one aspect of strategic policy where there is general bipartisan agreement, we should give the Administration the flexibility to implement these goals.

Even with the positive step the Committee took, I believe it is the right policy to repeal the entire provision prohibiting retirement of strategic nuclear delivery systems (section 1302 of the FY1998 National Defense Authorization Act). I am concerned that the President will be prevented from implementing his plan to take strategic weapons off high alert status with the rest of section 1302 in place. As we approach conference, I hope the Committee will discuss with Administration officials the budgetary and policy consequences of section 1302, given the President's policy statements and engagement with the Russians on a potential grand strategic agreement.

### DD-21 DESTROYER

I am pleased that the Committee provided \$619 million for the DD-21 land attack destroyer, and expressed its support for moving forward with the program. While I was disappointed that the Committee cut the FY2002 budget request by \$25 million, I note this action was taken by the Committee without prejudice for the program itself. The DD-21 was the top ship platform mentioned in the Chief of Naval Operation's testimony before this Committee. I strongly concur with his statement that "the program is central to our transformational effort, including the introduction of the Integrated Power System, the Advanced Gun System, multi-function radar, and reduced manning concepts. Additionally, the DD-21 is another step toward the creation of a more integrated Navy/Marine Corps team. DD-21 will provide significantly enhanced fire support for Marines ashore." I believe the committee recognizes the importance of these technologies and the platform itself for future mission and fleet requirements. While the cut was explained because of the delay in the contract award decision, I understand that the program office would be able to execute these funds to make up for lost schedule time, in order to keep the program on track for planned initial production.

## NATIONAL MISSILE DEFENSE

I have previously expressed my views on the various aspects of national missile defense, and associate myself with the additional views submitted by Mr. Spratt. I take this opportunity to comment on the process by which the Committee arrived at its endorsement of the Administration proposal. Ballistic missile defense, as a concept, was a priority for this Administration from the beginning. But we did not get the actual defense budget request until just one month before committee mark-up. We weren't informed of the Ft. Greely deployment plan until three weeks before mark-up. We did not get the detailed Ballistic Missile Defense Organization (BMDO) budget documents until a couple of weeks before mark-up. Traditionally, the Committee has four months to review the budget request before it drafts the defense authorization bill. With a spending increase of this magnitude, containing several new start programs unfamiliar to the Committee, I believe we did not have sufficient time to review the BMDO request and consider the policy and budget ramifications.

The Committee held only one hearing on the BMDO budget request. Personally, I found that Administration witnesses gave general or evasive answers to specific questions. I felt that the hearing record provided insufficient details and substance for the Committee to make a sound judgment on the massive BMDO expansion, and for the public to understand what is being proposed. Administration officials repeatedly cited actual and hypothetical threats to U.S. troops and allies from short- and medium-range missiles to justify the scrapping of the ABM Treaty, which does not constrain the development of any missile defenses for the cited threats. It's like watching a doctor prescribe chemotherapy to treat heart disease.

In a departure from traditional practice, this Committee did not receive any out-year estimates for defense spending in the Future Years Defense Plan. Likewise, we were not provided with any long-range cost estimates for the BMDO missile defense systems. We have no idea if the programs in the BMDO request are affordable in the medium or long term. The BMDO increase is too big, and too controversial, to merit a rubber stamp.

Lastly, I question whether it is appropriate for the Committee to ratify the radical new BMDO plan, in terms of budget, structure and policy, when every other major Pentagon decision is being deferred until after the Quadrennial Defense Review (QDR) process. Every time a Committee Member asked a Defense Department witness about the status of a major program, the answer was always: wait until the QDR. The lone exception was BMDO. The bill approved by the Committee makes no significant changes to any major weapons system, except BMD programs. I believe it is premature to approve the 57 percent increase for BMDO, given the impact this new initiative will have on other Defense Department funding priorities, on our national security strategy, and on our international security relationships.

As we move forward with the budget process, I hope that the majority and minority can work together to get resolution on the many questions that have yet to be answered.

TOM ALLEN.

## DISSENTING VIEWS

Mr. Chairman, I appreciate the opportunity to comment on the National Defense Authorization Act of 2002. I have serious reservations with aspects of this bill, in both the funding levels and the policy focus. I respectfully issue this dissent to include these concerns for the record.

### BUDGET INCREASE AND COMPARISON

The passage of H.R. 2586, the National Defense Authorization Act of 2002, by the House Armed Service Committee represents a near \$33 billion dollar increase from fiscal year 2001, and provides a total of \$343.3 billion in budget authority to the Department of Defense for fiscal year 2002. For the sake of comparison, the House of Representatives has passed an appropriation totaling \$7.7 billion for the Department of State for fiscal year 2002, and the appropriation for Foreign Operations was passed by the House at \$15.2 billion. The sum of these two appropriations—\$22.9 billion—representing the amount allocated to diplomacy, international aid and peace by the United States, rises only to seventy percent of the defense allocation increase and 6.7 percent of the entire defense budget.

Such a budget level would be appropriate if our nation were at war or if it still faced the captive threat of the Cold War. However, since neither circumstance exists, budget levels for diplomacy and war should be balanced at a more compatible level. Moreover, with the financial mismanagement that continues to exist within the Department of Defense, increases should not be made to many programs until a system of financial responsibility is instituted to prevent future overspending, fiscal waste and the lack of accountability.

### MISSILE DEFENSE

The single largest portion of the budget increase is dedicated to the development and proliferation of missile defense systems.

The Committee's missile defense program is a carbon copy of the Bush administration proposal. It would dramatically increase the missile defense budget by \$3 billion (57 percent) to \$8.3 billion. This accelerated missile defense program is virtually certain to lead China to increase the number of nuclear weapons pointed at U.S. cities and may discourage Russia from making deep cuts in its arsenal. This program has also had seriously questionable success in operational tests to date, and functional operation of any missile defense is still in doubt.

Expensive, high-tech weapons are no substitute for effective diplomacy, arms control, disarmament, and international cooperation. Cooperative international arms control and disarmament



agreements will be far more effective in advancing peace and security in the years ahead and will cost far less than a missile shield.

#### NUCLEAR REDUCTIONS

Although both Russia and the U.S. have ratified START II, its implementation has become entangled in contradictory conditions by the Russian Duma and the U.S. Senate over the Anti-Ballistic Missile (ABM) Treaty. I have been encouraged by President Bush's proposal to unilaterally reduce the U.S. strategic arsenal, beginning with the 50 Peacekeeper (MX) missiles, which contain 500 nuclear warheads.

Unfortunately, current law (Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85)) prohibits the President from reducing the nuclear arsenal, other than through START II ratification. Current law also places unnecessary restrictions on the ability of the President to de-alert, or take off high-alert status, our nuclear weapons. Currently the U.S. and Russia have over 4,000 nuclear weapons aimed at each other—poised to be launched within minutes.

The Committee unfortunately rejected the amendment by Rep. Tom Allen to remove the restrictions in Section 1302. It did allow a second, narrower amendment to remove the restrictions on the MX missile retirements. However, the Committee denied the President the ability to negotiate deeper reductions with Russia by defeating the first Allen amendment.

The President, Secretary of Defense Rumsfeld, and the Joint Chiefs of Staff have all called for reductions in our strategic arsenal. Yet the majority party on our Committee continues to cling to these weapons as Cold War relics.

I was also disappointed that the Committee rejected the amendment by Rep. Ellen Tauscher that would have de-alerted the nuclear weapons in our arsenal that are already slated for retirement. The first President Bush de-alerted thousands of nuclear weapons in 1991 as the Warsaw pact disintegrated. The current President Bush has also supported the concept of taking nuclear weapons off hair-trigger alert. Unfortunately the Committee again missed an opportunity to demonstrate leadership in reducing the nuclear danger.

#### MEDICAL ACCESS AND GENDER

I regret that the Committee did not support changing current law to permit service women and female dependents who serve or reside overseas to access military hospitals and other facilities for the purpose of privately funded abortions. Similar women who serve or reside within the United States have constitutionally protected right to access to legal and safe facilities that provide abortions. Left with no other option than to either seek an abortion in a potentially unsafe, foreign medical facility or to forgo an abortion altogether, this legal provision is tantamount to gender discrimination and should be changed. Not only does this threaten the health of such women, such a policy is seemingly unconstitutional, and further, it threatens retention and recruitment of soldiers. It is my hope that this restriction will be corrected upon consideration in

Committee of the Whole, and I urge the designated conferees from the House to support any such changes.

#### VIEQUES, PUERTO RICO

I find it unfortunate that the Committee has sought to reduce the likelihood of the Navy's departure from the island of Vieques, Puerto Rico and that the Reyes amendment was defeated. The people of Vieques were provided last year with the opportunity to choose their own fate with regards to the Navy range, and through a non-binding referendum on June 29, 2001, overwhelmingly issued their desire for the Navy to depart from their island. The continued bombing erodes the safety, environment and economy of this island and its people, and should cease. It is my hope that the Administration is permitted to proceed with the Navy's planned withdrawal from Vieques in 2003, and that the unlikely discovery of another "suitable" alternate site not be held as prerequisite for this departure.

#### DOMESTIC USE OF INTELLIGENCE

There have been recent revelations about the use of military intelligence for domestic issues, specifically with respect to the surveillance of Dr. Martin Luther King, Jr. and Operation Lantern Spike. Evidence of such past activities give rise today to grave constitutional issues and concern about civil liberties. The 1975 Report written by the Select Committee to Study Governmental Operations with Respect to Intelligence Activities revealed practices "abhorrent in a free society." The Church Committee, named after its Chairman, Frank Church of Idaho, exposed that in the name of state security a program of manipulation, infiltration, surveillance, harassment, disruption, and murder was carried out with the consent of those at the highest levels of the United States government and against domestic and international law.

Proposals supporting the creation of a National Homeland Security Agency raise a specter of the return of the most egregious aspects of the domestic program that deprived too many Americans of their constitutional rights and in some cases their lives. The military has an appropriate role in protecting the United States from foreign threats, and should remain dedicated to preparing for those threats. Domestic uses of the military have long been prohibited for good reason, and the same should continue to apply to all military functions, especially any and all military intelligence and surveillance.

#### INTERNATIONAL ASSISTANCE AND PROGRAMS

The escalating war on drugs that the United States is fighting has me increasingly concerned. Though I appreciate a reduction of \$4 million from the contributions to Peru for counter-drug support, the events surrounding the death of American missionary Veronica Bowers and her 7-month old daughter highlight the role our nation and military play in foreign affairs. Though it was private CIA contractors who were involved in this specific incident, our military resources are being used to train and support foreign nations in their efforts to curb drug production and distribution. As with the trans-

gressions that resulted from training foreign militaries at the School of the Americas, human rights abuses can result from the training, arming and empowerment of developing nations' armed forces. Further, we should be cautious that such activity does not draw our nation into difficult regional conflicts, and in light of the apparent failure of the war on drugs, the entire concept of military-based drug interdiction and its efficacy should be reconsidered.

#### QUALITY OF LIFE ISSUES

Despite my reservations with this legislation, it includes positive aspects that I applaud.

I would like to commend the Committee, and particularly Personnel Subcommittee Chairman McHugh for the increase in military pay and salaries. This is an appropriate step that not only provides our service men and women with sufficient compensation, but also achieves two other important goals: furthering the profession of the military and the responsibility inherent in the changing roles of the armed forces; and increasing the retention of service men and women. Similarly, increases in moving allowances, housing expenditures, provisions permitting concurrent receipt of retired pay and veteran's disability benefits, and efforts to protect voting rights of personnel are praiseworthy.

Many of the nations that we perceive as a threat will respond to the expansion and proliferation of missile defense, the expanding role of military in drug interdiction, and prevention of reductions in nuclear missiles. It is uncertain how these nations will respond, but I am confident that diplomacy and engagement will have much more positive effects on our national security than will our expanding defense budget. Similarly, the Department of Defense should be urged to respond to the trust that is instilled in it by reforming its financial management, reducing the obstruction that has plagued its history, and by eschewing involvement in domestic issues. I urge the Committee to prudently consider its role in developing not only national policy, but also international relations, and to realize that as the global leader we have a role not only in preparing for war, but also in promoting peace.

CYNTHIA MCKINNEY.

