

June 23 (legislative day, June 22), 2004

Ordered to be printed as passed

108TH CONGRESS
2D SESSION

S. 2400

AN ACT

To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ronald W. Reagan
5 National Defense Authorization Act for Fiscal Year
6 2005”.

1 **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF**
 2 **CONTENTS.**

3 (a) DIVISIONS.—This Act is organized into three divi-
 4 sions as follows:

5 (1) Division A—Department of Defense Au-
 6 thorizations.

7 (2) Division B—Military Construction Author-
 8 izations.

9 (3) Division C—Department of Energy Na-
 10 tional Security Authorizations and Other Authoriza-
 11 tions.

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

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Sec. 3. Congressional defense committees defined.

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- Sec. 2812. Modification and enhancement of authorities on facilities for reserve components.
- Sec. 2813. Authority to exchange or sell reserve component facilities and lands to obtain new reserve component facilities and lands.
- Sec. 2814. Repeal of authority of Secretary of Defense to recommend that installations be placed in inactive status during 2005 round of defense base closure and realignment.

Subtitle C—Land Conveyances

- Sec. 2821. Transfer of administrative jurisdiction, Defense Supply Center, Columbus, Ohio.
- Sec. 2822. Land conveyance, Browning Army Reserve Center, Utah.
- Sec. 2823. Land exchange, Arlington County, Virginia.
- Sec. 2824. Land conveyance, Hampton, Virginia.
- Sec. 2825. Land conveyance, Seattle, Washington.
- Sec. 2826. Transfer of jurisdiction, Nebraska Avenue Naval Complex, District of Columbia.
- Sec. 2827. Land conveyance, Honolulu, Hawaii.
- Sec. 2828. Land conveyance, Portsmouth, Virginia.
- Sec. 2829. Land conveyance, former Griffiss Air Force Base, New York.
- Sec. 2830. Land exchange, Maxwell Air Force Base, Alabama.
- Sec. 2831. Land exchange, Naval Air Station, Patuxent River, Maryland.
- Sec. 2832. Land conveyance, March Air Force Base, California.
- Sec. 2833. Land conveyance, Sunflower Army Ammunition Plant, Kansas.
- Sec. 2834. Land conveyance, Naval Weapons Station, Charleston, South Carolina.
- Sec. 2835. Land conveyance, Louisiana Army Ammunition Plant, Doyline, Louisiana.
- Sec. 2836. Modification of authority for land conveyance, equipment and storage yard, Charleston, South Carolina.

Subtitle D—Other Matters

- Sec. 2841. Department of Defense Follow-On Laboratory Revitalization Demonstration Program.
- Sec. 2842. Jurisdiction and utilization of former public domain lands, Umatilla Chemical Depot, Oregon.
- Sec. 2843. Development of heritage center for the National Museum of the United States Army.
- Sec. 2844. Authority to settle claim of Oakland Base Reuse Authority and Redevelopment Agency of the City of Oakland, California.
- Sec. 2845. Comptroller general report on closure of Department of Defense Dependent Elementary and Secondary Schools and commissary stores.

TITLE XXIX—MARITIME ADMINISTRATION

- Sec. 2901. Modification of priority afforded applications for national defense tank vessel construction assistance.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS****Subtitle A—National Security Programs Authorizations**

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.

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

- Sec. 3111. Limitation on availability of funds for Modern Pit Facility.
- Sec. 3112. Limitation on availability of funds for Advanced Nuclear Weapons Concepts Initiative.
- Sec. 3113. Limited authority to carry out new projects under Facilities and Infrastructure Recapitalization Program after project selection deadline.
- Sec. 3114. Modification of milestone and report requirements for National Ignition Facility.
- Sec. 3115. Modification of submittal date of annual plan for stewardship, management, and certification of warheads in the nuclear weapons stockpile.
- Sec. 3116. Defense site acceleration completion.
- Sec. 3117. National Academy of Sciences study.
- Sec. 3118. Annual report on expenditures for safeguards and security.
- Sec. 3119. Authority to consolidate counterintelligence offices of Department of Energy and National Nuclear Security Administration within National Nuclear Security Administration.
- Sec. 3120. Treatment of waste material.
- Sec. 3121. Local stakeholder organizations for Department of Energy environmental management 2006 closure sites.
- Sec. 3122. Report on maintenance of retirement benefits for certain workers at 2006 closure sites after closure of sites.
- Sec. 3123. Report on Efforts of National Nuclear Security Administration to understand plutonium aging.

Subtitle C—Proliferation Matters

- Sec. 3131. Modification of authority to use international nuclear materials protection and cooperation program funds outside the former Soviet Union.
- Sec. 3132. Acceleration of removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide.

Subtitle D—Other Matters

- Sec. 3141. Indemnification of Department of Energy contractors.
- Sec. 3142. Two-year extension of authority for appointment of certain scientific, engineering, and technical personnel.
- Sec. 3143. Enhancement of Energy Employees Occupational Illness Compensation Program authorities.
- Sec. 3144. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.
- Sec. 3145. Review of Waste Isolation Pilot Plant, New Mexico, pursuant to competitive contract.
- Sec. 3146. Compensation of Pajarito Plateau, New Mexico, homesteaders for acquisition of lands for Manhattan Project in World War II.

**Subtitle E—Energy Employees Occupational Illness
Compensation Program**

- Sec. 3161. Coverage of individuals employed at atomic weapons employer facilities during periods of residual contamination.
- Sec. 3162. Update of report on residual contamination of facilities.
- Sec. 3163. Workers compensation.

- Sec. 3164. Termination of effect of other enhancements of Energy Employees Occupational Illness Compensation Program.
- Sec. 3165. Sense of Senate on resource center for energy employees under Energy Employee Occupational Illness Compensation Program in Western New York and Western Pennsylvania region.
- Sec. 3166. Review by Congress of individuals designated by President as members of cohort.
- Sec. 3167. Inclusion of certain former nuclear weapons program workers in special exposure cohort under the Energy Employees Occupational Illness Compensation Program.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

- Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

- Sec. 3301. Disposal of ferromanganese.
- Sec. 3302. Revisions to required receipt objectives for certain previously authorized disposals from the National Defense Stockpile.
- Sec. 3303. Prohibition on storage of mercury at certain facilities.

TITLE XXXIV—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT

- Sec. 3401. Short Title.
- Sec. 3402. Findings.
- Sec. 3403. Definition of hate crime.
- Sec. 3404. Support for criminal investigations and prosecutions by State and local law enforcement officials.
- Sec. 3405. Grant Program.
- Sec. 3406. Authorization for additional personnel to assist State and local law enforcement.
- Sec. 3407. Prohibition of certain hate crime acts.
- Sec. 3408. Duties of Federal Sentencing Commission.
- Sec. 3409. Statistics.
- Sec. 3410. Severability.

TITLE XXXV—ASSISTANCE TO FIREFIGHTERS

- Sec. 3501. Short title.
- Sec. 3502. Authority of Secretary of Homeland Security for Firefighter Assistance Program.
- Sec. 3503. Grants to volunteer emergency medical service organizations.
- Sec. 3504. Grants for automated external defibrillator devices.
- Sec. 3505. Criteria for reviewing grant applications.
- Sec. 3506. Financial assistance for firefighter safety programs.
- Sec. 3507. Assistance for applications.
- Sec. 3508. Reduced requirements for matching funds.
- Sec. 3509. Grant recipient limitations.
- Sec. 3510. Other considerations.
- Sec. 3511. Reports to congress.
- Sec. 3512. Technical corrections.
- Sec. 3513. Authorization of appropriations.

1 **SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**

2 For purposes of this Act, the term “congressional de-
3 fense committees” means—

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

6 (2) the Committee on Armed Services and the
7 Committee on Appropriations of the House of Rep-
8 resentatives.

9 **DIVISION A—DEPARTMENT OF**
10 **DEFENSE AUTHORIZATIONS**
11 **TITLE I—PROCUREMENT**
12 **Subtitle A—Authorization of**
13 **Appropriations**

14 **SEC. 101. ARMY.**

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

17 (1) For aircraft, \$2,702,640,000.

18 (2) For missiles, \$1,488,321,000.

19 (3) For weapons and tracked combat vehicles,
20 \$1,693,595,000.

21 (4) For ammunition, \$1,598,302,000.

22 (5) For other procurement, \$5,384,296,000.

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

24 (a) NAVY.—Funds are hereby authorized to be appro-
25 priated for fiscal year 2005 for procurement for the Navy
26 as follows:

1 (1) For aircraft, \$8,870,832,000.

2 (2) For weapons, including missiles and tor-
3 pedoes, \$2,183,829,000.

4 (3) For shipbuilding and conversion,
5 \$10,127,027,000.

6 (4) For other procurement, \$4,904,978,000.

7 (b) MARINE CORPS.—Funds are hereby authorized to
8 be appropriated for fiscal year 2005 for procurement for
9 the Marine Corps in the amount of \$1,303,203,000.

10 (c) NAVY AND MARINE CORPS AMMUNITION.—Funds
11 are hereby authorized to be appropriated for fiscal year
12 2005 for procurement of ammunition for the Navy and
13 the Marine Corps in the amount of \$873,140,000.

14 **SEC. 103. AIR FORCE.**

15 Funds are hereby authorized to be appropriated for
16 fiscal year 2005 for procurement for the Air Force as fol-
17 lows:

18 (1) For aircraft, \$13,033,674,000.

19 (2) For missiles, \$4,635,613,000.

20 (3) For ammunition, \$1,396,457,000.

21 (4) For other procurement, \$13,298,257,000.

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

23 Funds are hereby authorized to be appropriated for
24 fiscal year 2005 for Defense-wide procurement in the
25 amount of \$2,967,402,000.

1 **Subtitle B—Army Programs**

2 **SEC. 111. LIGHT UTILITY HELICOPTER PROGRAM.**

3 (a) **LIMITATION.**—Of the funds authorized to be ap-
4 propriated under section 101(1) for the procurement of
5 light utility helicopters, \$45,000,000 may not be obligated
6 or expended until 30 days after the date on which the Sec-
7 retary of the Army submits to the congressional defense
8 committees a report that contains—

9 (1) the Secretary’s certification that all re-
10 quired documentation for the acquisition of light
11 utility helicopters has been completed and approved;
12 and

13 (2) the Army aviation modernization plan re-
14 quired by subsection (b).

15 (b) **ARMY AVIATION MODERNIZATION PLAN.**—(1)
16 Not later than March 1, 2005, the Secretary of the Army
17 shall submit to the congressional defense committees an
18 updated modernization plan for Army aviation.

19 (2) The updated Army aviation modernization plan
20 shall contain, at a minimum, the following matters:

21 (A) The analysis on which the plan is based.

22 (B) A discussion of the Secretary’s decision to
23 terminate the Comanche helicopter program and to
24 restructure the aviation force of the Army.

1 (C) The actions taken or to be taken to accel-
2 erate the procurement and development of aircraft
3 survivability equipment for Army aircraft, together
4 with a detailed list of aircraft survivability equip-
5 ment that specifies such equipment by platform and
6 by the related programmatic funding for procure-
7 ment.

8 (D) A discussion of the conversion of Apache
9 helicopters to block III configuration, including the
10 rationale for converting only 501 Apache helicopters
11 to that configuration and the costs associated with
12 a conversion of all Apache helicopters to the block
13 III configuration.

14 (E) A discussion of the procurement of light
15 armed reconnaissance helicopters, including the ra-
16 tionale for the requirement for light armed recon-
17 naissance helicopters and a discussion of the costs
18 associated with upgrading the light armed reconnais-
19 sance helicopter to meet Army requirements.

20 (F) The rationale for the Army's requirement
21 for light utility helicopters, together with a summary
22 and copy of the analysis of the alternative means for
23 meeting such requirement that the Secretary consid-
24 ered in the determination to procure light utility heli-
25 copters, including, at a minimum, the analysis of

1 the alternative of using light armed reconnaissance
 2 helicopters and UH-60 Black Hawk helicopters in-
 3 stead of light utility helicopters to meet such re-
 4 quirement.

5 (G) The rationale for the procurement of cargo
 6 fixed-wing aircraft.

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

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

11 **SEC. 112. UP-ARMORED HIGH MOBILITY MULTI-PURPOSE**
 12 **WHEELED VEHICLES OR WHEELED VEHICLE**
 13 **BALLISTIC ADD-ON ARMOR PROTECTION.**

14 (a) AMOUNT.—Of the amount authorized to be ap-
 15 propriated for the Army for fiscal year 2005 for other pro-
 16 curement under section 101(5), \$610,000,000 shall be
 17 available for both of the purposes described in subsection
 18 (b) and may be used for either or both of such purposes.

19 (b) PURPOSES.—The purposes referred to in sub-
 20 section (a) are as follows:

21 (1) The procurement of up-armored high mobil-
 22 ity multi-purpose wheeled vehicles at a rate up to
 23 450 such vehicles each month.

24 (2) The procurement of wheeled vehicle ballistic
 25 add-on armor protection.

1 (c) ALLOCATION BY SECRETARY OF THE ARMY.—(1)

2 The Secretary of the Army shall allocate the amount avail-
3 able under subsection (a) between the two purposes set
4 forth in subsection (b) as the Secretary determines appro-
5 priate to meet the requirements of the Army.

6 (2) Not later than 15 days before making an alloca-
7 tion under paragraph (1), the Secretary shall transmit a
8 notification of the proposed allocation to the congressional
9 defense committees.

10 (d) PROHIBITION ON USE FOR OTHER PURPOSES.—

11 The amount available under subsection (a) may not be
12 used for any purpose other than a purpose specified in
13 subsection (b).

14 **SEC. 113. COMMAND-AND-CONTROL VEHICLES OR FIELD**

15 **ARTILLERY AMMUNITION SUPPORT VEHI-**

16 **CLES.**

17 (a) INCREASED AMOUNT FOR PROCUREMENT OF
18 WEAPONS AND TRACKED COMBAT VEHICLES.—The
19 amount authorized to be appropriated under section
20 101(3) is hereby increased by \$5,000,000.

21 (b) AMOUNT FOR COMMAND-AND-CONTROL VEHI-
22 CLES OR FIELD ARTILLERY AMMUNITION SUPPORT VEHI-
23 CLES.—Of the amount authorized to be appropriated
24 under section 101(3), \$5,000,000 may be used for the pro-

1 curement of command-and-control vehicles or field artil-
2 lery ammunition support vehicles.

3 (c) OFFSET.—The amount authorized to be appro-
4 priated by section 421 is hereby reduced by \$5,000,000,
5 with the amount of the reduction to be derived from excess
6 amounts provided for military personnel of the Air Force.

7 **Subtitle C—Navy Programs**

8 **SEC. 121. LHA(R) AMPHIBIOUS ASSAULT SHIP PROGRAM.**

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

13 (b) AUTHORIZED AMOUNT.—Of the amount author-
14 ized to be appropriated under section 102(a)(3) for fiscal
15 year 2005, \$150,000,000 shall be available for the ad-
16 vance procurement and advance construction of compo-
17 nents for the first amphibious assault ship of the LHA(R)
18 class. The Secretary of the Navy may enter into a contract
19 or contracts with the shipbuilder and other entities for the
20 advance procurement and advance construction of those
21 components.

1 **SEC. 122. MULTIYEAR PROCUREMENT AUTHORITY FOR THE**
2 **LIGHT WEIGHT 155-MILLIMETER HOWITZER**
3 **PROGRAM.**

4 (a) **AUTHORITY.**—Beginning with the fiscal year
5 2005 program year, the Secretary of the Navy may, in
6 accordance with section 2306b of title 10, United States
7 Code, enter into a multiyear contract for the procurement
8 of the light weight 155-millimeter howitzer.

9 (b) **LIMITATION.**—The Secretary may not enter into
10 a multiyear contract for the procurement of light weight
11 155 millimeter howitzers under subsection (a) until the
12 Secretary determines on the basis of operational testing
13 that the light weight 155-millimeter howitzer is effective
14 for fleet use.

15 **SEC. 123. PILOT PROGRAM FOR FLEXIBLE FUNDING OF**
16 **SUBMARINE ENGINEERED REFUELING OVER-**
17 **HAUL AND CONVERSION.**

18 (a) **ESTABLISHMENT.**—The Secretary of the Navy
19 may carry out a pilot program of flexible funding of engi-
20 neered refueling overhauls and conversions of submarines
21 in accordance with this section.

22 (b) **AUTHORITY.**—Under the pilot program, the Sec-
23 retary of the Navy may, subject to subsection (d), transfer
24 amounts described in subsection (c) to the authorization
25 of appropriations for the Navy for procurement for ship-
26 building and conversion for any fiscal year to continue to

1 provide authorization of appropriations for any engineered
2 refueling conversion or overhaul of a submarine of the
3 Navy for which funds were initially provided on the basis
4 of the authorization of appropriations to which trans-
5 ferred.

6 (c) AMOUNTS AVAILABLE FOR TRANSFER.—The
7 amounts available for transfer under this section are
8 amounts authorized to be appropriated to the Navy for
9 any fiscal year after fiscal year 2004 and before fiscal year
10 2013 for the following purposes:

11 (1) For procurement as follows:

12 (A) For shipbuilding and conversion.

13 (B) For weapons procurement.

14 (C) For other procurement.

15 (2) For operation and maintenance.

16 (d) LIMITATIONS.—(1) A transfer may be made with
17 respect to a submarine under this section only to meet
18 either (or both) of the following requirements:

19 (A) An increase in the size of the workload for
20 engineered refueling overhaul and conversion to meet
21 existing requirements for the submarine.

22 (B) A new engineered refueling overhaul and
23 conversion requirement resulting from a revision of
24 the original baseline engineered refueling overhaul
25 and conversion program for the submarine.

1 (2) A transfer may not be made under this section
2 before the date that is 30 days after the date on which
3 the Secretary of the Navy transmits to the congressional
4 defense committees a written notification of the intended
5 transfer. The notification shall include the following mat-
6 ters:

7 (A) The purpose of the transfer.

8 (B) The amounts to be transferred.

9 (C) Each account from which the funds are to
10 be transferred.

11 (D) Each program, project, or activity from
12 which the amounts are to be transferred.

13 (E) Each account to which the amounts are to
14 be transferred.

15 (F) A discussion of the implications of the
16 transfer for the total cost of the submarine engi-
17 neered refueling overhaul and conversion program
18 for which the transfer is to be made.

19 (e) MERGER OF FUNDS.—A transfer made from one
20 account to another with respect to the engineered refuel-
21 ing overhaul and conversion of a submarine under the au-
22 thority of this section shall be deemed to increase the
23 amount authorized for the account to which the amount
24 is transferred by an amount equal to the amount trans-
25 ferred and shall be available for the engineered refueling

1 overhaul and conversion of such submarine for the same
2 period as the account to which transferred.

3 (f) RELATIONSHIP TO OTHER TRANSFER AUTHOR-
4 ITY.—The authority to make transfers under this section
5 is in addition to any other transfer authority provided in
6 this or any other Act and is not subject to any restriction,
7 limitation, or procedure that is applicable to the exercise
8 of any such other authority.

9 (g) FINAL REPORT.—Not later than October 1,
10 2011, the Secretary of the Navy shall submit to the con-
11 gressional defense committees a report containing the Sec-
12 retary’s evaluation of the efficacy of the authority provided
13 under this section.

14 (h) TERMINATION OF PROGRAM.—No transfer may
15 be made under this section after September 30, 2012.

16 **Subtitle D—Air Force Programs**

17 **SEC. 131. PROHIBITION OF RETIREMENT OF** 18 **KC-135E AIRCRAFT.**

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

21 **SEC. 132. PROHIBITION OF RETIREMENT OF** 22 **F-117 AIRCRAFT.**

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

1 **SEC. 133. SENIOR SCOUT MISSION BED-DOWN INITIATIVE.**

2 (a) AMOUNT FOR PROGRAM.—The amount author-
 3 ized to be appropriated by section 103(1) is hereby in-
 4 creased by \$2,000,000, with the amount of the increase
 5 to be available for a bed-down initiative to enable the C-
 6 130 aircraft of the Idaho Air National Guard to be the
 7 permanent carrier of the SENIOR SCOUT mission shel-
 8 ters of the 169th Intelligence Squadron of the Utah Air
 9 National Guard.

10 (b) OFFSET.—The amount authorized to be appro-
 11 priated by section 421 is hereby reduced by \$2,000,000,
 12 with the amount of the reduction to be derived from excess
 13 amounts provided for military personnel of the Air Force.

14 **Subtitle E—Other Matters**

15 **SEC. 141. REPORT ON OPTIONS FOR ACQUISITION OF PRE-**
 16 **CISION-GUIDED MUNITIONS.**

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

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

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

25 (2) For each such munition—

1 (A) the inventory level as of the most re-
2 cent date that it is feasible to specify when the
3 report is prepared;

4 (B) the inventory objective that is nec-
5 essary to execute the current National Military
6 Strategy prescribed by the Chairman of the
7 Joint Chiefs of Staff;

8 (C) the year in which that inventory objec-
9 tive would be expected to be achieved—

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

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

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

16 (D) the procurement cost (in constant fis-
17 cal year 2004 dollars) at each of the production
18 rates specified in subparagraph (C).

19 **SEC. 142. REPORT ON MATURITY AND EFFECTIVENESS OF**
20 **THE GLOBAL INFORMATION GRID BAND-**
21 **WIDTH EXPANSION (GIG-BE) NETWORK.**

22 (a) REPORT REQUIRED.—Not later than 180 days
23 after the date of the enactment of this Act, the Secretary
24 of Defense shall submit to the Committee on Armed Serv-
25 ices of the Senate and the Committee on Armed Services

1 of the House of Representatives a report on a test pro-
2 gram to demonstrate the maturity and effectiveness of the
3 Global Information Grid-Bandwidth Expansion (GIG-BE)
4 network architecture.

5 (b) CONTENTS OF REPORT.—The report under sub-
6 section (a) shall—

7 (1) determine whether the results of the test
8 program described in subsection (a) demonstrate
9 compliance of the GIG-BE architecture with the
10 overall goals of the GIG-BE program;

11 (2) identify—

12 (A) the extent to which the GIG-BE archi-
13 tecture does not meet the overall goals of the
14 program; and

15 (B) the components that are not yet suffi-
16 ciently developed to achieve the overall goals of
17 the program;

18 (3) include a plan and cost estimates for achiev-
19 ing compliance; and

20 (4) document the equipment and network con-
21 figuration used to demonstrate real-world scenarios
22 within the continental United States.

1 **TITLE II—RESEARCH, DEVELOP-**
2 **MENT, TEST AND EVALUA-**
3 **TION**

4 **Subtitle A—Authorization of**
5 **Appropriations**

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

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

10 (1) For the Army, \$9,686,958,000.

11 (2) For the Navy, \$16,679,391,000.

12 (3) For the Air Force, \$21,264,267,000.

13 (4) For Defense-wide activities,
14 \$20,635,937,000, of which \$309,135,000 is author-
15 ized for the Director of Operational Test and Eval-
16 uation.

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

18 (a) **AMOUNT FOR PROJECTS.**—Of the total amount
19 authorized to be appropriated by section 201,
20 \$10,998,850,000 shall be available for science and tech-
21 nology projects.

22 (b) **SCIENCE AND TECHNOLOGY DEFINED.**—In this
23 section, the term “science and technology project” means
24 work funded in program elements for defense research, de-

1 velopment, test, and evaluation under Department of De-
2 fense budget activities 1, 2, or 3.

3 **Subtitle B—Program Require-**
4 **ments, Restrictions, and Limita-**
5 **tions**

6 **SEC. 211. DD(X)-CLASS DESTROYER PROGRAM.**

7 (a) AUTHORIZATION OF SHIP.—For the second de-
8 stroyer in the DD(X)-class destroyer program, the Sec-
9 retary of the Navy is authorized to use funds authorized
10 to be appropriated to the Navy under section 201(2).

11 (b) AMOUNT FOR DETAIL DESIGN.—Of the amount
12 authorized to be appropriated under section 201(2) for fis-
13 cal year 2005, \$99,400,000 shall be available for the detail
14 design of the second destroyer of the DD(X)-class.

15 **SEC. 212. GLOBAL POSITIONING SYSTEM III SATELLITE.**

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

22 (1) completes an analysis of alternatives for the
23 satellite and ground architectures, satellite tech-
24 nologies, and tactics, techniques, and procedures for

1 the next generation global positioning system (GPS);
2 and

3 (2) submits to the congressional defense com-
4 mittees a report on the results of the analysis, in-
5 cluding an assessment of the results of the analysis.

6 **SEC. 213. INITIATION OF CONCEPT DEMONSTRATION OF**
7 **GLOBAL HAWK HIGH ALTITUDE ENDURANCE**
8 **UNMANNED AERIAL VEHICLE.**

9 Section 221(c) of the Floyd D. Spence National De-
10 fense Authorization Act for Fiscal Year 2001 (as enacted
11 into law by Public Law 106–398; 114 Stat. 1654A–40)
12 is amended by striking “March 1, 2001” and inserting
13 “March 1, 2005”.

14 **SEC. 214. JOINT UNMANNED COMBAT AIR SYSTEMS PRO-**
15 **GRAM.**

16 (a) EXECUTIVE COMMITTEE.—(1) The Secretary of
17 Defense shall, subject to subsection (b), establish and re-
18 quire an executive committee to provide guidance and rec-
19 ommendations for the management of the Joint Un-
20 manned Combat Air Systems program to the Director of
21 the Defense Advanced Research Projects Agency and the
22 personnel who are managing the program for such agency.

23 (2) The executive committee established under para-
24 graph (1) shall be composed of the following members:

1 (A) The Under Secretary of Defense for Acqui-
2 sition, Technology, and Logistics, who shall chair
3 the executive committee.

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

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

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

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

12 (F) Any additional personnel of the Department
13 of Defense whom the Secretary determines appro-
14 priate for membership on the executive committee.

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

20 **SEC. 215. JOINT STRIKE FIGHTER AIRCRAFT PROGRAM.**

21 (a) **REQUIREMENT FOR STUDY.**—The Secretary of
22 Defense shall require the Defense Science Board to con-
23 duct a study on the Joint Strike Fighter aircraft program.

1 (b) MATTERS TO BE STUDIED.—The study shall in-
2 clude, for each of the three variants of the Joint Strike
3 Fighter aircraft, the following matters:

4 (1) The current status.

5 (2) The extent of the effects of excess aircraft
6 weight on estimated performance.

7 (3) The validity of the technical approaches
8 being considered to achieve the required perform-
9 ance.

10 (4) The risks of those technical approaches.

11 (5) A list of any alternative technical ap-
12 proaches that have the potential to achieve the re-
13 quired performance.

14 (c) REPORT.—The Secretary shall submit a report on
15 the results of the study to the congressional defense com-
16 mittees at the same time that the President submits the
17 budget for fiscal year 2006 to Congress under section
18 1105(a) of title 31, United States Code.

19 **SEC. 216. JOINT EXPERIMENTATION.**

20 (a) DEFENSE-WIDE PROGRAM ELEMENT.—The Sec-
21 retary of Defense shall plan, program, and budget for all
22 joint experimentation of the Armed Forces as a separate,
23 dedicated program element under research, development,
24 test, and evaluation, Defense-wide activities.

1 (b) APPLICABILITY TO FISCAL YEARS AFTER FISCAL
2 YEAR 2005.—This section shall apply with respect to fis-
3 cal years beginning after 2005.

4 **SEC. 217. INFRASTRUCTURE SYSTEM SECURITY ENGINEER-**
5 **ING DEVELOPMENT FOR THE NAVY.**

6 (a) INCREASE IN AMOUNT FOR RESEARCH, DEVEL-
7 OPMENT, TEST AND EVALUATION, NAVY.—The amount
8 authorized to be appropriated by section 201(2) for re-
9 search, development, test and evaluation, Navy, is hereby
10 increased by \$3,000,000.

11 (b) AVAILABILITY OF AMOUNT FOR INFRASTRUC-
12 TURE SYSTEM SECURITY ENGINEERING DEVELOP-
13 MENT.—Of the amount authorized to be appropriated by
14 section 201(2) for research, development, test, and evalua-
15 tion, Navy, as increased by subsection (a), \$3,000,000
16 may be available for infrastructure system security engi-
17 neering development.

18 (c) OFFSET.—(1) The amount authorized to be ap-
19 propriated by section 101(5) for other procurement, Army,
20 is hereby reduced by \$1,000,000, with the amount of the
21 reduction to be allocated to Buffalo Landmine Vehicles.

22 (2) The amount authorized to be appropriated by sec-
23 tion 102(b) for procurement for the Marine Corps is here-
24 by reduced by \$500,000, with the amount of the reduction
25 to be allocated to Combat Casualty Care.

1 (3) The amount authorized to be appropriated by sec-
2 tion 201(1) for research, development, test, and evalua-
3 tion, Army, is hereby reduced by \$1,000,000, with the
4 amount of the reduction to be allocated to Active Coating
5 Technology.

6 (4) The amount authorized to be appropriated by sec-
7 tion 201(4) for research, development, test, and evalua-
8 tion, Defense-wide activities, is hereby reduced by
9 \$500,000, with the amount of the reduction to be allocated
10 to Radiation Hardened Complementary Metal Oxide Semi-
11 Conductors.

12 **SEC. 218. NEUROTOXIN MITIGATION RESEARCH.**

13 (a) INCREASE IN AMOUNT FOR RESEARCH, DEVEL-
14 OPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—
15 The amount authorized to be appropriated by section
16 201(4) for research, development, test, and evaluation,
17 Defense-wide activities, is hereby increased by \$2,000,000.

18 (b) AVAILABILITY FOR NEUROTOXIN MITIGATION
19 RESEARCH.—Of the amount authorized to be appro-
20 priated by section 201(4) for research, development, test,
21 and evaluation, Defense-wide activities, as increased by
22 subsection (a), \$2,000,000 may be available in Program
23 Element PE 62384BP for neurotoxin mitigation re-
24 search.

1 (c) OFFSET.—The amount authorized to be appro-
2 priated by section 301(1) for operation and maintenance
3 for the Army is hereby reduced by \$2,000,000, with the
4 amount of the reduction to be allocated to Satellite Com-
5 munications Language training activity (SCOLA) at the
6 Army Defense Language Institute.

7 **SEC. 219. SPIRAL DEVELOPMENT OF JOINT THREAT WARN-**
8 **ING SYSTEM MARITIME VARIANTS.**

9 (a) AMOUNT FOR PROGRAM.—The amount author-
10 ized to be appropriated by section 201(4) is hereby in-
11 creased by \$2,000,000, with the amount of the increase
12 to be available in the program element PE 1160405BB
13 for joint threat warning system maritime variants.

14 (b) OFFSET.—The amount authorized to be appro-
15 priated by section 421 is hereby reduced by \$2,000,000,
16 with the amount of the reduction to be derived from excess
17 amounts provided for military personnel of the Air Force.

18 **SEC. 220. ADVANCED FERRITE ANTENNA.**

19 (a) AMOUNT FOR DEVELOPMENT AND TESTING.—Of
20 the amount authorized to be appropriated under section
21 201(2), \$3,000,000 may be available for development and
22 testing of the Advanced Ferrite Antenna.

23 (b) OFFSET.—The amount authorized to be appro-
24 priated by section 421 is hereby reduced by \$3,000,000,

1 with the amount of the reduction to be derived from excess
2 amounts provided for military personnel of the Air Force.

3 **SEC. 221. PROTOTYPE LITTORAL ARRAY SYSTEM FOR OP-**
4 **ERATING SUBMARINES.**

5 (a) INCREASE IN AMOUNT FOR RESEARCH, DEVEL-
6 OPMENT, TEST, AND EVALUATION, NAVY.—The amount
7 authorized to be appropriated by section 201(2) for re-
8 search, development, test, and evaluation for the Navy is
9 hereby increased by \$5,000,000.

10 (b) AVAILABILITY OF AMOUNT.—Of the amount au-
11 thorized to be appropriated by section 201(2) for research,
12 development, test, and evaluation for the Navy, as in-
13 creased by subsection (a), \$5,000,000 may be available for
14 Program Element PE 0604503N for the design, develop-
15 ment, and testing of a prototype littoral array system for
16 operating submarines.

17 (c) OFFSET.—The amount authorized to be appro-
18 priated by section 421 is hereby reduced by \$5,000,000,
19 with the amount of the reduction to be derived from excess
20 amounts provided for military personnel of the Air Force.

21 **SEC. 222. ADVANCED MANUFACTURING TECHNOLOGIES**
22 **AND RADIATION CASUALTY RESEARCH.**

23 (a) ADDITIONAL AMOUNT FOR ADVANCED MANU-
24 FACTURING STRATEGIES.—Of the amount authorized to
25 be appropriated by section 201(4) for research, develop-

1 ment, test, and evaluation, Defense-wide activities, the
2 amount available for Advanced Manufacturing Tech-
3 nologies (PE 0708011S) is hereby increased by
4 \$2,000,000.

5 (b) AMOUNT FOR RADIATION CASUALTY RE-
6 SEARCH.—Of the amount authorized to be appropriated
7 by section 201(4) for research, development, test, and
8 evaluation, Defense-wide activities, \$3,000,000 may be
9 available for Radiation Casualty Research
10 (PE 0603002D8Z).

11 (c) OFFSET.—The amount authorized to be appro-
12 priated by section 421 is hereby reduced by \$5,000,000,
13 with the amount of the reduction to be derived from excess
14 amounts provided for military personnel of the Air Force.

15 **Subtitle C—Ballistic Missile**
16 **Defense**

17 **SEC. 231. FIELDING OF BALLISTIC MISSILE DEFENSE CAPA-**
18 **BILITIES.**

19 Funds authorized to be appropriated under section
20 201(4) for the Missile Defense Agency may be used for
21 the development and fielding of an initial set of ballistic
22 missile defense capabilities.

1 **SEC. 232. PATRIOT ADVANCE CAPABILITY-3 AND MEDIUM**
2 **EXTENDED AIR DEFENSE SYSTEM.**

3 (a) OVERSIGHT.—In the management of the com-
4 bined program for the acquisition of the Patriot Advanced
5 Capability-3 missile system and the Medium Extended Air
6 Defense System, the Secretary of Defense shall require the
7 Secretary of the Army to obtain the approval of the Direc-
8 tor of the Missile Defense Agency before the Secretary of
9 the Army—

10 (1) either—

11 (A) changes any system level technical
12 specifications that are in effect under the pro-
13 gram as of the date of the enactment of this
14 Act; or

15 (B) establishes any new system level tech-
16 nical specifications after such date;

17 (2) makes any significant change in a procure-
18 ment quantity (including any quantity in any future
19 block procurement) that, as of such date, is planned
20 for—

21 (A) the Patriot Advanced Capabilities-3
22 missile system; or

23 (B) PAC-3 configuration-3 radars, launch-
24 ers, or fire control units; or

1 (3) changes the baseline development schedule
2 that is in effect for the program as of the date of
3 the enactment of this Act.

4 (b) DEFINITIONS.—In this section:

5 (1) The term “system level technical specifica-
6 tions”, with respect to a system to which this section
7 applies, means technical specifications expressed in
8 terms of technical performance, including test speci-
9 fications, that affect the ability of the system to con-
10 tribute to the capability of the ballistic missile de-
11 fense system of the United States, as determined by
12 the Director of the Missile Defense Agency.

13 (2) The term “significant change”, with respect
14 to a planned procurement quantity, means any
15 change of such quantity that would result in a sig-
16 nificant change in the contribution that, as of the
17 date of the enactment of this Act, is planned for the
18 Patriot Advanced Capability-3 system to make to
19 the ballistic missile defense system of the United
20 States.

21 (3) The term “baseline development schedule”
22 means the schedule on which technology upgrades
23 for the combined acquisition program referred to in
24 subsection (a) are planned for development.

1 (4) The terms “Patriot Advanced Capability-3”
2 and “PAC-3 configuration-3”—

3 (A) mean the air and missile defense sys-
4 tem that, as of June 1, 2004, is referred to by
5 either such name in the management of the
6 combined acquisition program referred to in
7 subsection (a); and

8 (B) include such system as it is improved
9 with new air and missile defense technologies.

10 **SEC. 233. COMPTROLLER GENERAL ASSESSMENTS OF BAL-**
11 **LISTIC MISSILE DEFENSE PROGRAMS.**

12 (a) ANNUAL ASSESSMENTS.—At the conclusion of
13 each of 2004 through 2009, the Comptroller General of
14 the United States shall conduct an assessment of the ex-
15 tent to which each ballistic missile defense program met
16 the cost, scheduling, testing, and performance goals for
17 such program for such year as established pursuant to sec-
18 tion 232(c) of the National Defense Authorization Act for
19 Fiscal Year 2002 (10 U.S.C. 2431 note).

20 (b) REPORTS ON ANNUAL ASSESSMENTS.—Not later
21 than February 15 of each of 2005 through 2010, the
22 Comptroller General shall submit to the congressional de-
23 fense committees a report on the assessment conducted
24 by the Comptroller General under subsection (a) for the
25 previous year.

1 **SEC. 234. BASELINES AND OPERATIONAL TEST AND EVAL-**
2 **UATION FOR BALLISTIC MISSILE DEFENSE**
3 **SYSTEM.**

4 (a) TESTING CRITERIA.—Not later than February 1,
5 2005, the Secretary of Defense, in consultation with the
6 Director of Operational Test and Evaluation, shall pre-
7 scribe appropriate criteria for operationally realistic test-
8 ing of fieldable prototypes developed under the ballistic
9 missile defense spiral development program. The Sec-
10 retary shall submit a copy of the prescribed criteria to the
11 congressional defense committees.

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

16 (2) The Secretary of Defense shall ensure that each
17 block configuration of the ballistic missile defense system
18 is tested consistent with the criteria prescribed under sub-
19 section (a).

20 (c) RELATIONSHIP TO OTHER LAW.—Nothing in this
21 section shall be construed to exempt any spiral develop-
22 ment program of the Department of Defense, after com-
23 pletion of the spiral development, from the applicability
24 of any provision of chapter 144 of title 10, United States
25 Code, or section 139, 181, 2366, 2399, or 2400 of such

1 title in accordance with the terms and conditions of such
2 provision.

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

7 (2) The Director shall submit to the Secretary of De-
8 fense and the congressional defense committees a report
9 on the evaluation of each test conducted under subsection
10 (a) upon completion of the evaluation of such test under
11 paragraph (1).

12 (e) COST, SCHEDULE, AND PERFORMANCE BASE-
13 LINES.—(1) The Director of the Missile Defense Agency
14 shall establish cost, schedule, and performance baselines
15 for each block configuration of the Ballistic Missile De-
16 fense System being fielded. The cost baseline for a block
17 configuration shall include full life cycle costs for the block
18 configuration.

19 (2) The Director shall include the baselines estab-
20 lished under paragraph (1) in the first Selected Acquisi-
21 tion Report for the Ballistic Missile Defense System that
22 is submitted to Congress under section 2432 of title 10,
23 United States Code, after the establishment of such base-
24 lines.

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

7 (f) VARIATIONS AGAINST BASELINES.—In the event
8 the cost, schedule, or performance of any block configura-
9 tion of the Ballistic Missile Defense System varies signifi-
10 cantly (as determined by the Director of the Ballistic Mis-
11 sile Defense Agency) from the applicable baseline estab-
12 lished under subsection (d), the Director shall include such
13 variation, and the reasons for such variation, in the Se-
14 lected Acquisition Report submitted to Congress under
15 section 2432 of title 10, United States Code.

16 (g) MODIFICATIONS OF BASELINES.—In the event
17 the Director of the Missile Defense Agency elects to under-
18 take any modification of a baseline established under sub-
19 section (d), the Director shall submit to the congressional
20 defense committees a report setting forth the reasons for
21 such modification.

1 **Subtitle D—Other Matters**

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

3 **INSERTION.**

4 (a) **REPORT REQUIRED.**—(1) For each of fiscal years
5 2006, 2007, 2008, and 2009, the Secretary of Defense
6 shall submit to the congressional defense committees a re-
7 port on the submarine technologies that are available or
8 potentially available for insertion in submarines of the
9 Navy to reduce the production and operating costs of the
10 submarines while maintaining or improving the effective-
11 ness of the submarines.

12 (2) The annual report for a fiscal year under para-
13 graph (1) shall be submitted at the same time that the
14 President submits to Congress the budget for that fiscal
15 year under section 1105(a) of title 31, United States
16 Code.

17 (b) **CONTENT.**—The report on submarine tech-
18 nologies under subsection (a) shall include, for each class
19 of submarines of the Navy, the following matters:

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

22 (A) a plan for the insertion of any such
23 technologies that have been determined appro-
24 priate for such submarines; and

1 (B) the estimated cost of such technology
2 insertions.

3 (2) A list of the technologies that have not been
4 demonstrated, together with a plan for the dem-
5 onstration of any such technologies that have the po-
6 tential for being appropriate for such submarines.

7 **SEC. 242. SENSE OF THE SENATE REGARDING FUNDING OF**
8 **THE ADVANCED SHIPBUILDING ENTERPRISE**
9 **UNDER THE NATIONAL SHIPBUILDING RE-**
10 **SEARCH PROGRAM OF THE NAVY.**

11 (a) FINDINGS.—Congress makes the following find-
12 ings:

13 (1) The budget for fiscal year 2005, as sub-
14 mitted to Congress by the President, provides
15 \$10,300,000 for the Advanced Shipbuilding Enter-
16 prise under the National Shipbuilding Research Pro-
17 gram of the Navy.

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

21 (3) The leaders of the United States ship-
22 building industry have embraced the Advanced Ship-
23 building Enterprise as a method for exploring and
24 collaborating on innovation in shipbuilding and ship

1 repair that collectively benefits all components of the
2 industry.

3 (b) SENSE OF THE SENATE.—It is the sense of the
4 Senate—

5 (1) that the Senate—

6 (A) strongly supports the innovative Ad-
7 vanced Shipbuilding Enterprise under the Na-
8 tional Shipbuilding Research Program as an en-
9 terprise between the Navy and industry that
10 has yielded new processes and techniques that
11 reduce the cost of building and repairing ships
12 in the United States; and

13 (B) is concerned that the future-years de-
14 fense program of the Department of Defense
15 that was submitted to Congress for fiscal year
16 2005 does not reflect any funding for the Ad-
17 vanced Shipbuilding Enterprise after fiscal year
18 2005; and

19 (2) that the Secretary of Defense should con-
20 tinue to provide in the future-years defense program
21 for funding the Advanced Shipbuilding Enterprise at
22 a sustaining level in order to support additional re-
23 search to further reduce the cost of designing, build-
24 ing, and repairing ships.

1 **TITLE III—OPERATION AND**
2 **MAINTENANCE**
3 **Subtitle A—Authorization of**
4 **Appropriations**

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

6 Funds are hereby authorized to be appropriated for
7 fiscal year 2005 for the use of the Armed Forces and other
8 activities and agencies of the Department of Defense for
9 expenses, not otherwise provided for, for operation and
10 maintenance, in amounts as follows:

11 (1) For the Army, \$26,305,611,000.

12 (2) For the Navy, \$29,702,790,000.

13 (3) For the Marine Corps, \$3,682,727,000.

14 (4) For the Air Force, \$27,423,560,000.

15 (5) For Defense-wide activities,
16 \$17,453,576,000.

17 (6) For the Army Reserve, \$1,925,728,000.

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

19 (8) For the Marine Corps Reserve,
20 \$197,496,000.

21 (9) For the Air Force Reserve, \$2,154,790,000.

22 (10) For the Army National Guard,
23 \$4,227,236,000.

24 (11) For the Air National Guard,
25 \$4,366,738,000.

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

3 (13) For Environmental Restoration, Army,
4 \$405,598,000.

5 (14) For Environmental Restoration, Navy,
6 \$266,820,000.

7 (15) For Environmental Restoration, Air Force,
8 \$397,368,000.

9 (16) For Environmental Restoration, Defense-
10 wide, \$23,684,000.

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

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

15 (19) For Cooperative Threat Reduction pro-
16 grams, \$409,200,000.

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

18 Funds are hereby authorized to be appropriated for
19 fiscal year 2005 for the use of the Armed Forces and other
20 activities and agencies of the Department of Defense for
21 providing capital for working capital and revolving funds
22 in amounts as follows:

23 (1) For the Defense Working Capital Funds,
24 \$1,625,686,000.

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

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

4 (a) DEFENSE HEALTH PROGRAM.—Funds are here-
5 by authorized to be appropriated for the Department of
6 Defense for fiscal year 2005 for expenses, not otherwise
7 provided for, for the Defense Health Program,
8 \$17,992,211,000, of which—

9 (1) \$17,555,169,000 is for Operation and
10 Maintenance;

11 (2) \$72,407,000 is for Research, Development,
12 Test and Evaluation; and

13 (3) \$364,635,000 is for Procurement.

14 (b) CHEMICAL AGENTS AND MUNITIONS DESTRUC-
15 TION, DEFENSE.—(1) Funds are hereby authorized to be
16 appropriated for the Department of Defense for fiscal year
17 2005 for expenses, not otherwise provided for, for Chem-
18 ical Agents and Munitions Destruction, Defense,
19 \$1,518,990,000, of which—

20 (A) \$1,138,801,000 is for Operation and Main-
21 tenance;

22 (B) \$301,209,000 is for Research, Develop-
23 ment, Test and Evaluation; and

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

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

3 (A) the destruction of lethal chemical agents
4 and munitions in accordance with section 1412 of
5 the Department of Defense Authorization Act, 1986
6 (50 U.S.C. 1521); and

7 (B) the destruction of chemical warfare mate-
8 rial of the United States that is not covered by sec-
9 tion 1412 of such Act.

10 (c) DRUG INTERDICTION AND COUNTER-DRUG AC-
11 TIVITIES, DEFENSE-WIDE.—Funds are hereby authorized
12 to be appropriated for the Department of Defense for fis-
13 cal year 2005 for expenses, not otherwise provided for, for
14 Drug Interdiction and Counter-Drug Activities, Defense-
15 Wide, \$852,697,000.

16 (d) DEFENSE INSPECTOR GENERAL.—Funds are
17 hereby authorized to be appropriated for the Department
18 of Defense for fiscal year 2005 for expenses, not otherwise
19 provided for, for the Office of the Inspector General of
20 the Department of Defense, \$164,562,000, of which—

21 (1) \$162,362,000 is for Operation and Mainte-
22 nance;

23 (2) \$100,000 is for Research, Development,
24 Test, and Evaluation; and

25 (3) \$2,100,000 is for Procurement.

1 **SEC. 304. AMOUNT FOR ONE SOURCE MILITARY COUN-**
2 **SELING AND REFERRAL HOTLINE.**

3 (a) AUTHORIZATION OF APPROPRIATION OF ADDI-
4 TIONAL AMOUNT.—The amount authorized to be appro-
5 priated under section 301(5) is hereby increased by
6 \$5,000,000, which shall be available (in addition to other
7 amounts available under this Act for the same purpose)
8 only for the Department of Defense One Source coun-
9 seling and referral hotline.

10 (b) OFFSET.—The amount authorized to be appro-
11 priated by section 421 is hereby reduced by \$5,000,000,
12 with the amount of the reduction to be derived from excess
13 amounts provided for military personnel of the Air Force.

14 **Subtitle B—Program Require-**
15 **ments, Restrictions, and Limita-**
16 **tions**

17 **SEC. 311. COMMANDER'S EMERGENCY RESPONSE PRO-**
18 **GRAM.**

19 (a) FUNDING.—Of the amounts authorized to be ap-
20 propriated for fiscal year 2005 by section 301(5) for oper-
21 ation and maintenance for Defense-wide activities, not
22 more than \$300,000,000 may be made available in fiscal
23 year 2005 for the following:

24 (1) The Commander's Emergency Response
25 Program, which was established by the Adminis-
26 trator of the Coalition Provisional Authority for the

1 purpose of enabling United States military com-
2 manders in Iraq to respond to urgent humanitarian
3 relief and reconstruction needs within their areas of
4 responsibility by carrying out programs to provide
5 immediate assistance to the people of Iraq.

6 (2) A similar program to enable United States
7 military commanders in Afghanistan to respond in
8 such manner to similar needs in Afghanistan.

9 (b) QUARTERLY REPORTS REQUIRED.—The Sec-
10 retary of Defense shall submit to the congressional defense
11 committees on a quarterly basis reports on the use of
12 amounts made available under subsection (a).

13 **SEC. 312. LIMITATION ON TRANSFERS OUT OF WORKING**
14 **CAPITAL FUNDS.**

15 Section 2208 of title 10, United States Code, is
16 amended by adding at the end the following new sub-
17 section:

18 “(r) LIMITATION ON TRANSFERS.—(1) Notwith-
19 standing any authority for transfer of funds provided in
20 this section, no transfer may be made out of a working
21 capital fund or between or among working capital funds
22 under such authority unless the Secretary of Defense has
23 submitted a notification of the proposed transfer to the
24 congressional defense committees in accordance with cus-
25 tomary procedures.

1 “(2) The amount of a transfer covered by a notifica-
2 tion under paragraph (1) that is proposed to be made in
3 a fiscal year does not count for the purpose of any limita-
4 tion on the total amount of transfers that may be made
5 for that fiscal year under authority provided to the Sec-
6 retary of Defense in a law authorizing appropriations for
7 a fiscal year for military activities of the Department of
8 Defense or a law making appropriations for the Depart-
9 ment of Defense.”.

10 **SEC. 313. FAMILY READINESS PROGRAM OF THE NATIONAL**
11 **GUARD.**

12 (a) **AMOUNT FOR PROGRAM.**—The amount author-
13 ized to be appropriated by section 301(1) for operation
14 and maintenance for the Army is hereby increased by
15 \$10,000,000 for the Family Readiness Program of the
16 National Guard.

17 (b) **OFFSET.**—The amount authorized to be appro-
18 priated by section 421 is hereby reduced by \$10,000,000,
19 with the amount of the reduction to be derived from excess
20 amounts provided for military personnel of the Air Force.

1 **Subtitle C—Environmental**
2 **Provisions**

3 **SEC. 321. PAYMENT OF CERTAIN PRIVATE CLEANUP COSTS**
4 **IN CONNECTION WITH DEFENSE ENVIRON-**
5 **MENTAL RESTORATION PROGRAM.**

6 (a) PAYMENT FOR ACTIVITIES AT FORMER DEFENSE
7 PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL RE-
8 MEDIAL ACTION.—Section 2701(d) of title 10, United
9 States Code, is amended—

10 (1) in paragraph (1), by striking “paragraph
11 (3)” and inserting “paragraph (4)”;

12 (2) by redesignating paragraphs (2), (3), and
13 (4), as paragraphs (3), (4), and (5), respectively;
14 and

15 (3) by inserting after paragraph (1) the fol-
16 lowing new paragraph (2):

17 “(2) ACTIVITIES AT CERTAIN FORMER DE-
18 FENSE PROPERTY.—In addition to agreements under
19 paragraph (1), the Secretary may also enter into
20 agreements with owners of property subject to a cov-
21 enant provided by the United States under section
22 120(h)(3)(A)(ii) of CERCLA (42 U.S.C.
23 9620(h)(3)(A)(ii)) to reimburse the owners of such
24 property for activities under this section with respect
25 to such property by reason of the covenant.”.

1 (b) SOURCE OF FUNDS FOR FORMER BRAC PROP-
 2 ERTY SUBJECT TO COVENANT FOR ADDITIONAL REME-
 3 DIAL ACTION.—Section 2703 of such title is amended—

4 (1) in subsection (g)(1), by striking “The sole
 5 source” and inserting “Except as provided in sub-
 6 section (h), the sole source”; and

7 (2) by adding at the end the following new sub-
 8 section:

9 “(h) SOLE SOURCE OF FUNDS FOR ENVIRONMENTAL
 10 REMEDIATION AT CERTAIN BASE REALIGNMENT AND
 11 CLOSURE SITES.—In the case of property disposed of pur-
 12 suant to a base closure law and subject to a covenant de-
 13 scribed in section 2701(d)(2) of this title, the sole source
 14 of funds for activities under such section shall be the base
 15 closure account established under the applicable base clo-
 16 sure law.”.

17 **SEC. 322. REIMBURSEMENT OF ENVIRONMENTAL PROTEC-**
 18 **TION AGENCY FOR CERTAIN COSTS IN CON-**
 19 **NECTION WITH MOSES LAKE WELLFIELD**
 20 **SUPERFUND SITE, MOSES LAKE, WASH-**
 21 **INGTON.**

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

1 (2) The payment under paragraph (1) is to reimburse
2 the Environmental Protection Agency for its costs, includ-
3 ing interest, incurred in overseeing a remedial investiga-
4 tion/feasibility study performed by the Department of the
5 Army under the Defense Environmental Restoration Pro-
6 gram at the former Larson Air Force Base, Moses Lake
7 Superfund Site, Moses Lake, Washington.

8 (3) The reimbursement described in paragraph (2) is
9 provided for in the interagency agreement entered into by
10 the Department of the Army and the Environmental Pro-
11 tection Agency for the Moses Lake Wellfield Superfund
12 Site in March 1999.

13 (b) SOURCE OF FUNDS.—Any payment under sub-
14 section (a) shall be made using funds authorized to be ap-
15 propriated by section 301(17) for operation and mainte-
16 nance for Environmental Restoration, Formerly Used De-
17 fense Sites.

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

1 **SEC. 323. SATISFACTION OF CERTAIN AUDIT REQUIRE-**
2 **MENTS BY THE INSPECTOR GENERAL OF THE**
3 **DEPARTMENT OF DEFENSE.**

4 (a) **SATISFACTION OF REQUIREMENTS.**—The Inspec-
5 tor General of the Department of Defense shall be deemed
6 to be in compliance with the requirements of subsection
7 (k) of section 111 of Comprehensive Environmental Re-
8 sponse, Compensation, and Liability Act of 1980 (42
9 U.S.C. 9611) if the Inspector General conducts periodic
10 audits of the payments, obligations, reimbursements and
11 other uses of the Fund described in that section, even if
12 such audits do not occur on an annual basis.

13 (b) **REPORTS TO CONGRESS ON AUDITS.**—The In-
14 spector General shall submit to Congress a report on each
15 audit conducted by the Inspector General as described in
16 subsection (a).

17 **SEC. 324. COMPTROLLER GENERAL STUDY AND REPORT ON**
18 **DRINKING WATER CONTAMINATION AND RE-**
19 **LATED HEALTH EFFECTS AT CAMP LEJEUNE,**
20 **NORTH CAROLINA.**

21 (a) **STUDY.**—The Comptroller General of the United
22 States shall conduct a study on drinking water contamina-
23 tion and related health effects at Camp Lejeune, North
24 Carolina. The study shall consist of the following:

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

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

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

8 (C) when Marine Corps officials first be-
9 came aware of such contamination;

10 (D) what actions have been taken to ad-
11 dress such contamination;

12 (E) the appropriateness of such actions in
13 light of the state of knowledge regarding con-
14 tamination of that type, and applicable legal re-
15 quirements regarding such contamination, as of
16 the time of such actions; and

17 (F) any other matters that the Comptroller
18 General considers appropriate.

19 (2) An assessment of the study on the possible
20 health effects associated with the drinking of con-
21 taminated drinking water at Camp Lejeune as pro-
22 posed by the Agency for Toxic Substances and Dis-
23 ease Registry (ATSDR), including whether the pro-
24 posed study—

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

3 (B) will encompass an appropriate time-
4 frame;

5 (C) will consider all relevant health effects;
6 and

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

9 (b) **AUTHORITY TO USE EXPERTS.**—The Comp-
10 troller General may use experts in conducting the study
11 required by subsection (a). Any such experts shall be inde-
12 pendent, highly qualified, and knowledgeable in the mat-
13 ters covered by the study.

14 (c) **PARTICIPATION BY OTHER INTERESTED PAR-**
15 **TIES.**—In conducting the study required by subsection (a),
16 the Comptroller General shall ensure that interested par-
17 ties, including individuals who lived or worked at Camp
18 Lejeune during the period when the drinking water may
19 have been contaminated, have the opportunity to submit
20 information and views on the matters covered by the
21 study.

22 (d) **CONSTRUCTION WITH ATSDR STUDY.**—The re-
23 quirement under subsection (a) that the Comptroller Gen-
24 eral conduct the study required by paragraph (2) of that
25 subsection may not be construed as a basis for the delay

1 of the study proposed by Agency for Toxic Substances and
2 Disease Registry as described in that subsection, but is
3 intended to provide an independent review of the appro-
4 priateness and credibility of the study proposed by the
5 Agency and to identify possible improvements in the plan
6 or implementation of the study proposed by the Agency.

7 (e) REPORT.—(1) Not later than one year after the
8 date of the enactment of this Act, the Comptroller General
9 shall submit to the congressional defense committees a re-
10 port on the study required by subsection (a), including
11 such recommendations as the Comptroller General con-
12 siders appropriate for further study or for legislative or
13 other action.

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

19 **SEC. 325. INCREASE IN AUTHORIZED AMOUNT OF ENVIRON-**
20 **MENTAL REMEDIATION, FRONT ROYAL, VIR-**
21 **GINIA.**

22 Section 591(a)(2) of the Water Resources Develop-
23 ment Act of 1999 (Public Law 106–53; 113 Stat. 378)
24 is amended by striking “\$12,000,000” and inserting
25 “\$22,000,000”.

1 **SEC. 326. COMPTROLLER GENERAL STUDY AND REPORT ON**
2 **ALTERNATIVE TECHNOLOGIES TO DECON-**
3 **TAMINATE GROUNDWATER AT DEPARTMENT**
4 **OF DEFENSE INSTALLATIONS.**

5 (a) **COMPTROLLER GENERAL STUDY.**—The Comp-
6 troller General of the United States shall conduct a study
7 to determine whether or not cost-effective technologies are
8 available to the Department of Defense for the cleanup
9 of groundwater contamination at Department installations
10 in lieu of traditional methods, such as pump and treat,
11 that can be expensive and take many years to complete.

12 (b) **ELEMENTS.**—The study under subsection (a)
13 shall include the following:

14 (1) An identification of current technologies
15 being used or field tested by the Department to
16 treat groundwater at Department installations, in-
17 cluding the contaminants being addressed.

18 (2) An identification of cost-effective tech-
19 nologies described in that subsection that are cur-
20 rently under research, under development by com-
21 mercial vendors, or available commercially and being
22 used outside the Department and that have potential
23 for use by the Department to address the contami-
24 nants identified under paragraph (1).

1 (2) Perchlorate, a naturally occurring and man-
2 made compound with medical, commercial, and na-
3 tional defense applications, which has been used pri-
4 marily in military munitions and rocket fuels, has
5 been detected in fresh water sources intended for
6 use as drinking water and water necessary for the
7 production of agricultural commodities.

8 (3) If ingested in sufficient concentration and
9 in adequate duration, perchlorate may interfere with
10 thyroid metabolism, and this effect may impair the
11 normal development of the brain in fetuses and
12 newborns.

13 (4) The Federal Government has not yet estab-
14 lished a drinking water standard for perchlorate.

15 (5) The National Academy of Sciences is con-
16 ducting an assessment of the state of the science re-
17 garding the effects on human health of perchlorate
18 ingestion that will aid in understanding the effect of
19 perchlorate exposure on sensitive populations.

20 (b) SENSE OF SENATE.—It is the sense of the Senate
21 that—

22 (1) perchlorate has been identified as a con-
23 taminant of drinking water sources or in the envi-
24 ronment in 34 States and has been used or manu-
25 factured in 44 States;

1 (2) perchlorate exposure at or above a certain
2 level may adversely affect public health, particularly
3 the health of vulnerable and sensitive populations;
4 and

5 (3) the Department of Defense should—

6 (A) work to develop a national plan to re-
7 mediate perchlorate contamination of the envi-
8 ronment resulting from Department’s activities
9 to ensure the Department is prepared to re-
10 spond quickly and appropriately once a drinking
11 water standard is established;

12 (B) in cases in which the Department is
13 already remediating perchlorate contamination,
14 continue that remediation;

15 (C) prior to the development of a drinking
16 water standard for perchlorate, develop a plan
17 to remediate perchlorate contamination in cases
18 in which such contamination from the Depart-
19 ment’s activities is present in ground or surface
20 water at levels that pose a hazard to human
21 health; and

22 (D) continue the process of evaluating and
23 prioritizing sites without waiting for the devel-
24 opment of a Federal standard.

1 **SEC. 328. AMOUNT FOR RESEARCH AND DEVELOPMENT**
2 **FOR IMPROVED PREVENTION OF LEISHMANI-**
3 **ASIS.**

4 (a) INCREASE IN AMOUNT FOR DEFENSE HEALTH
5 PROGRAM.—The amount authorized to be appropriated by
6 section 303(a)(2) for the Defense Health Program for re-
7 search, development, test, and evaluation is hereby in-
8 creased by \$500,000, with the amount of the increase to
9 be available for purposes relating to Leishmaniasis
10 Diagnostics Laboratory.

11 (b) INCREASE IN AMOUNT FOR RDT&E, ARMY FOR
12 LEISHMANIASIS TOPICAL TREATMENT.—The amount au-
13 thorized to be appropriated by section 201(1) for research,
14 development, test, and evaluation, Army, as increased by
15 subsection (b), is hereby further increased by \$4,500,000,
16 with the amount of the increase to be available in Program
17 Element PE 0604807A for purposes relating to Leishma-
18 niasis Topical Treatment.

19 (c) OFFSET.—The amount authorized to be appro-
20 priated by section 421 is hereby reduced by \$5,000,000,
21 with the amount of the reduction to be derived from excess
22 amounts provided for military personnel of the Air Force.

1 **SEC. 329. REPORT REGARDING ENCROACHMENT ISSUES**
2 **AFFECTING UTAH TEST AND TRAINING**
3 **RANGE, UTAH.**

4 (a) **REPORT REQUIRED.**—(1) The Secretary of the
5 Air Force shall prepare a report that outlines current and
6 anticipated encroachments on the use and utility of the
7 special use airspace of the Utah Test and Training Range
8 in the State of Utah, including encroachments brought
9 about through actions of other Federal agencies. The Sec-
10 retary shall include such recommendations as the Sec-
11 retary considers appropriate regarding any legislative ini-
12 tiatives necessary to address encroachment problems iden-
13 tified by the Secretary in the report.

14 (2) It is the sense of the Senate that such rec-
15 ommendations should be carefully considered for future
16 legislative action.

17 (b) **SUBMISSION OF REPORT.**—Not later than one
18 year after the date of the enactment of this Act, the Sec-
19 retary shall submit the report to the Committee on Armed
20 Services of the House of Representatives and the Com-
21 mittee on Armed Services of the Senate.

22 (c) **PROHIBITION ON GROUND MILITARY OPER-**
23 **ATIONS.**—Nothing in this section shall be construed to
24 permit a military operation to be conducted on the ground
25 in a covered wilderness study area in the Utah Test and
26 Training Range.

1 (d) COMMUNICATIONS AND TRACKING SYSTEMS.—
2 Nothing in this section shall be construed to prevent any
3 required maintenance of existing communications, instru-
4 mentation, or electronic tracking systems (or the infra-
5 structure supporting such systems) necessary for effective
6 testing and training to meet military requirements in the
7 Utah Test and Training Range.

8 **Subtitle D—Depot-Level**
9 **Maintenance and Repair**

10 **SEC. 331. SIMPLIFICATION OF ANNUAL REPORTING RE-**
11 **QUIREMENTS CONCERNING FUNDS EX-**
12 **PENDED FOR DEPOT MAINTENANCE AND RE-**
13 **PAIR WORKLOADS.**

14 (a) CONSOLIDATION AND REVISION OF DEPART-
15 MENTAL REPORTING REQUIREMENTS.—Section 2466(d)
16 of title 10, United States Code, is amended—

17 (1) in paragraph (1)—

18 (A) by striking “February 1” and inserting
19 “April 1”; and

20 (B) by striking “the preceding two fiscal
21 years” and inserting “the preceding fiscal year
22 and are projected to be expended in the fiscal
23 year in which submitted and ensuing fiscal
24 years”; and

25 (2) by striking paragraph (2).

1 (b) TIMING AND CONTENT OF GAO VIEWS.—Para-
2 graph (3) of such section—

3 (1) is redesignated as paragraph (2); and

4 (2) is amended—

5 (A) by striking “60 days” and inserting
6 “90 days”; and

7 (B) by striking “whether—” and all that
8 follows and inserting the following: “whether
9 the Department of Defense has complied with
10 the requirements of subsection (a) for the fiscal
11 year preceding the fiscal year in which the re-
12 port is submitted and whether the expenditure
13 projections for the other fiscal years covered by
14 the report are reasonable.”.

15 **SEC. 332. REPEAL OF REQUIREMENT FOR ANNUAL REPORT**
16 **ON MANAGEMENT OF DEPOT EMPLOYEES.**

17 (a) REPEAL.—Section 2472 of title 10, United States
18 Code, is amended by striking subsection (b).

19 (b) CONFORMING AMENDMENT.—Subsection (a) of
20 such section is amended by striking “(a) PROHIBITION ON
21 MANAGEMENT BY END STRENGTH.—”.

1 **SEC. 333. EXTENSION OF SPECIAL TREATMENT FOR CER-**
2 **TAIN EXPENDITURES INCURRED IN THE OP-**
3 **ERATION OF CENTERS OF INDUSTRIAL AND**
4 **TECHNICAL EXCELLENCE.**

5 Section 2474(f)(1) of title 10, United States Code,
6 is amended by striking “through 2006” and inserting
7 “through 2009”.

8 **Subtitle E—Extensions of Program**
9 **Authorities**

10 **SEC. 341. TWO-YEAR EXTENSION OF DEPARTMENT OF DE-**
11 **FENSE TELECOMMUNICATIONS BENEFIT.**

12 Section 344(c) of the National Defense Authorization
13 Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat.
14 1449) is amended by striking “September 30, 2004” and
15 inserting “September 30, 2006”.

16 **SEC. 342. TWO-YEAR EXTENSION OF ARSENAL SUPPORT**
17 **PROGRAM INITIATIVE.**

18 Section 343 of the Floyd D. Spence National Defense
19 Authorization Act for Fiscal Year 2001 (10 U.S.C. 4551
20 note) is amended—

21 (1) in subsection (a), by striking “2004” and
22 inserting “2006”; and

23 (2) in subsection (g)—

24 (A) in paragraph (1), by striking “2004”
25 and inserting “2006”; and

1 (B) in paragraph (2), by striking “2003”
2 and inserting “2005”.

3 **SEC. 343. REAUTHORIZATION OF WARRANTY CLAIMS RE-**
4 **COVERY PILOT PROGRAM.**

5 Section 391(f) of the National Defense Authorization
6 Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C.
7 2304 note) is amended by striking “September 30, 2004”
8 and inserting “September 30, 2006”.

9 **Subtitle F—Defense Dependents**
10 **Education**

11 **SEC. 351. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES**
12 **THAT BENEFIT DEPENDENTS OF MEMBERS**
13 **OF THE ARMED FORCES AND DEPARTMENT**
14 **OF DEFENSE CIVILIAN EMPLOYEES.**

15 (a) CONTINUATION OF DEPARTMENT OF DEFENSE
16 PROGRAM FOR FISCAL YEAR 2005.—Of the amount au-
17 thorized to be appropriated pursuant to section 301(5) for
18 operation and maintenance for Defense-wide activities,
19 \$30,000,000 shall be available only for the purpose of pro-
20 viding educational agencies assistance to local educational
21 agencies.

22 (b) NOTIFICATION.—Not later than June 30, 2005,
23 the Secretary of Defense shall notify each local edu-
24 cational agency that is eligible for educational agencies as-
25 sistance for fiscal year 2005 of—

1 (1) that agency’s eligibility for the assistance;
2 and

3 (2) the amount of the assistance for which that
4 agency is eligible.

5 (c) DISBURSEMENT OF FUNDS.—The Secretary of
6 Defense shall disburse funds made available under sub-
7 section (a) not later than 30 days after the date on which
8 notification to the eligible local educational agencies is
9 provided pursuant to subsection (b).

10 (d) DEFINITIONS.—In this section:

11 (1) The term “educational agencies assistance”
12 means assistance authorized under section 386(b) of
13 the National Defense Authorization Act for Fiscal
14 Year 1993 (Public Law 102–484; 20 U.S.C. 7703
15 note).

16 (2) The term “local educational agency” has
17 the meaning given that term in section 8013(9) of
18 the Elementary and Secondary Education Act of
19 1965 (20 U.S.C. 7713(9)).

20 (3) The term “basic support payment” means
21 a payment authorized under section 8003(b)(1) of
22 the Elementary and Secondary Education Act of
23 1965 (20 U.S.C. 7703(b)(1)).

1 **SEC. 352. IMPACT AID FOR CHILDREN WITH SEVERE DIS-**
2 **ABILITIES.**

3 Of the amount authorized to be appropriated pursu-
4 ant to section 301(5) for operation and maintenance for
5 Defense-wide activities, \$5,000,000 shall be available for
6 payments under section 363 of the Floyd D. Spence Na-
7 tional Defense Authorization Act for Fiscal Year 2001 (as
8 enacted into law by Public Law 106–398; 114 Stat.
9 1654A–77; 20 U.S.C. 7703a).

10 **SEC. 353. SENSE OF THE SENATE REGARDING THE IMPACT**
11 **OF THE PRIVATIZATION OF MILITARY HOUS-**
12 **ING ON LOCAL SCHOOLS.**

13 (a) FINDINGS.—The Senate finds the following:

14 (1) There are approximately 750,000 school-
15 aged children of members of the active duty Armed
16 Forces in the United States.

17 (2) Approximately 650,000 of those students
18 are currently being served in public schools across
19 the United States.

20 (3) The Department of Defense has embarked
21 on military housing privatization initiatives using
22 authorities provided in subchapter IV of chapter 169
23 of part IV of subtitle A of title 10, United States
24 Code, which will result in the improvement or re-
25 placement of 120,000 military family housing units
26 in the United States.

1 (4) The Secretary of each military department
 2 is authorized to include the construction of new
 3 school facilities in agreements carried out under sub-
 4 chapter IV of chapter 169 of part IV of subtitle A
 5 of title 10, United States Code.

6 (b) SENSE OF THE SENATE.—It is the sense of the
 7 Senate that the Department of Defense should support the
 8 construction of schools in housing privatization agree-
 9 ments that severely impact student populations.

10 **Subtitle G—Other Matters**

11 **SEC. 361. CHARGES FOR DEFENSE LOGISTICS INFORMA-** 12 **TION SERVICES MATERIALS.**

13 (a) AUTHORITY.—Subchapter I of chapter 8 of title
 14 10, United States Code, is amended by adding at the end
 15 the following new section:

16 **“§ 197. Defense Logistics Agency: fees charged for lo-** 17 **gistics information**

18 “(a) AUTHORITY.—The Secretary of Defense may
 19 charge fees for providing information in the Federal Lo-
 20 gistics Information System through Defense Logistics In-
 21 formation Services to a department or agency of the exec-
 22 utive branch outside the Department of Defense, or to a
 23 State, a political subdivision of a State, or any person.

24 “(b) AMOUNT.—The fee or fees prescribed under sub-
 25 section (a) shall be such amount or amounts as the Sec-

1 retary of Defense determines appropriate for recovering
 2 the costs of providing information as described in such
 3 subsection.

4 “(c) RETENTION OF FEES.—Fees collected under
 5 this section shall be credited to the appropriation available
 6 for Defense Logistics Information Services for the fiscal
 7 year in which collected, shall be merged with other sums
 8 in such appropriation, and shall be available for the same
 9 purposes and period as the appropriation with which
 10 merged.

11 “(d) DEFENSE LOGISTICS INFORMATION SERVICES
 12 DEFINED.—In this section, the term ‘Defense Logistics
 13 Information Services’ means the organization within the
 14 Defense Logistics Agency that is known as Defense Logis-
 15 tics Information Services.”.

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

“197. Defense Logistics Agency: fees charged for logistics information.”.

19 **SEC. 362. TEMPORARY AUTHORITY FOR CONTRACTOR PER-**
 20 **FORMANCE OF SECURITY-GUARD FUNC-**
 21 **TIONS.**

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

1 (1) by inserting “(1)” after “AUTHORITY.—”;

2 and

3 (2) by striking “at the end of the three-year pe-
4 riod” and all that follows through the period at the
5 end and inserting “at the end of September 30,
6 2006, except that such authority shall not be in ef-
7 fect under this section for any period after Decem-
8 ber 1, 2004, during which the Secretary has failed
9 to comply with the requirement to submit the plan
10 under subsection (d)(2).

11 “(2) No security-guard functions may be performed
12 under any contract entered into using the authority pro-
13 vided under this section during any period for which the
14 authority for contractor performance of security-guard
15 functions under this section is not in effect.

16 “(3) The term of any contract entered into using the
17 authority provided under this section may not extend be-
18 yond the date of the expiration of authority under para-
19 graph (1).”.

20 (b) REAFFIRMATION AND REVISION OF REPORTING
21 REQUIREMENT.—Subsection (d) of such section is
22 amended—

23 (1) by striking “180 days after the date of the
24 enactment of this Act,” and inserting “December 1,
25 2004,”;

1 (2) by redesignating paragraphs (1) and (2) as
2 paragraphs (2) and (4), respectively;

3 (3) by inserting after “shall—” the following
4 new paragraph:

5 “(1) identify each contract for the performance
6 of security-guard functions entered into pursuant to
7 the authority in subsection (a) on or before Sep-
8 tember 30, 2004, including information regarding—

9 “(A) each installation at which such secu-
10 rity-guard functions are performed or are to be
11 performed;

12 “(B) the period and amount of such con-
13 tract;

14 “(C) the number of security guards em-
15 ployed or to be employed under such contract;
16 and

17 “(D) the actions taken or to be taken with-
18 in the Department of Defense to ensure that
19 the conditions applicable under paragraph (1)
20 of subsection (a) or determined under para-
21 graph (2) of such subsection are satisfied;”;

22 (4) by striking “and” at the end of paragraph
23 (2), as redesignated by paragraph (2); and

24 (5) by inserting after paragraph (2), as so re-
25 designated, the following new paragraph:

1 “(3) identify any limitation or constraint on the
2 end strength of the civilian workforce of the Depart-
3 ment of Defense that makes it difficult to meet re-
4 quirements identified under paragraph (2) by hiring
5 personnel as civilian employees of the Department of
6 Defense; and”.

7 **SEC. 363. PILOT PROGRAM FOR PURCHASE OF CERTAIN**
8 **MUNICIPAL SERVICES FOR DEPARTMENT OF**
9 **DEFENSE INSTALLATIONS.**

10 (a) **AUTHORITY.**—The Secretary of Defense may
11 carry out a pilot program to provide for the purchase of
12 certain services needed for a Department of Defense in-
13 stallation from a county or municipality where the instal-
14 lation is located.

15 (b) **PURPOSE OF PROGRAM.**—The purpose of the
16 pilot program is to provide the Secretary with a basis for
17 evaluating the efficacy of purchasing public works, utility,
18 and other services needed for Department of Defense in-
19 stallations from counties or municipalities where the in-
20 stallations are located.

21 (c) **SERVICES AUTHORIZED FOR PROCUREMENT.**—
22 Only the following services may be purchased for a partici-
23 pating installation under the pilot program:

24 (1) Refuse collection.

25 (2) Refuse disposal.

1 (3) Library services.

2 (4) Recreation services.

3 (5) Facility maintenance and repair.

4 (6) Utilities.

5 (d) PROGRAM INSTALLATIONS.—The Secretary of
6 each military department may designate under this section
7 not more than two installations of such military depart-
8 ment for participation in the pilot program. Only installa-
9 tions located in the United States are eligible for designa-
10 tion under this subsection.

11 (e) REPORT.—Not later than February 1, 2010, the
12 Secretary of Defense shall submit to Congress a report
13 on any pilot program carried out under this section. The
14 report shall include—

15 (1) the Secretary's evaluation of the efficacy of
16 purchasing public works, utility, and other services
17 for Department of Defense installations from coun-
18 ties or municipalities where the installations are lo-
19 cated; and

20 (2) any recommendations that the Secretary
21 considers appropriate regarding authority to make
22 such purchases.

23 (f) PERIOD OF PILOT PROGRAM.—The pilot program
24 may be carried out during fiscal years 2005 through 2010.

1 **SEC. 364. CONSOLIDATION AND IMPROVEMENT OF AU-**
 2 **THORITIES FOR ARMY WORKING-CAPITAL**
 3 **FUNDED FACILITIES TO ENGAGE IN PUBLIC-**
 4 **PRIVATE PARTNERSHIPS.**

5 (a) PUBLIC-PRIVATE PARTNERSHIPS AUTHOR-
 6 IZED.—Chapter 433 of title 10, United States Code, is
 7 amended by adding at the end the following new section:

8 **“§ 4544. Army industrial facilities: public-private**
 9 **partnerships**

10 “(a) PUBLIC-PRIVATE PARTNERSHIPS AUTHOR-
 11 IZED.—A working-capital funded Army industrial facility
 12 may enter into cooperative arrangements with non-Army
 13 entities to carry out military or commercial projects with
 14 the non-Army entities. A cooperative arrangement under
 15 this section shall be known as a ‘public-private partner-
 16 ship’.

17 “(b) AUTHORIZED PARTNERSHIP ACTIVITIES.—A
 18 public-private partnership entered into by an Army indus-
 19 trial facility may provide for any of the following activities:

20 “(1) The sale of articles manufactured by the
 21 facility or services performed by the facility to per-
 22 sons outside the Department of Defense.

23 “(2) The performance of—

24 “(A) work by a non-Army entity at the fa-
 25 cility; or

1 “(B) work for a non-Army entity by the
2 facility.

3 “(3) The sharing of work by the facility and
4 one or more non-Army entities.

5 “(4) The leasing, or use under a facilities use
6 contract or otherwise, of the facility (including ex-
7 cess capacity) or equipment (including excess equip-
8 ment) of the facility by a non-Army entity.

9 “(5) The preparation and submission of joint
10 offers by the facility and one or more non-Army en-
11 tities for competitive procurements entered into with
12 a department or agency of the United States.

13 “(c) CONDITIONS FOR PUBLIC-PRIVATE PARTNER-
14 SHIPS.—An activity described in subsection (b) may be
15 carried out as a public-private partnership at an Army in-
16 dustrial facility only under the following conditions:

17 “(1) In the case of an article to be manufac-
18 tured or services to be performed by the facility, the
19 articles can be substantially manufactured, or the
20 services can be substantially performed, by the facil-
21 ity without subcontracting for more than incidental
22 performance.

23 “(2) The activity does not interfere with per-
24 formance of—

1 “(A) work by the facility for the Depart-
2 ment of Defense; or

3 “(B) a military mission of the facility.

4 “(3) The activity meets one of the following ob-
5 jectives:

6 “(A) Maximize utilization of the capacity
7 of the facility.

8 “(B) Reduction or elimination of the cost
9 of ownership of the facility.

10 “(C) Reduction in the cost of manufac-
11 turing or maintaining Department of Defense
12 products at the facility.

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

15 “(4) The non-Army entity partner or purchaser
16 agrees to hold harmless and indemnify the United
17 States from any liability or claim for damages or in-
18 jury to any person or property arising out of the ac-
19 tivity, including any damages or injury arising out
20 of a decision by the Secretary of the Army or the
21 Secretary of Defense to suspend or terminate an ac-
22 tivity, or any portion thereof, during a war or na-
23 tional emergency or to require the facility to perform
24 other work or provide other services on a priority
25 basis, except—

1 “(A) in any case of willful misconduct or
2 gross negligence; and

3 “(B) in the case of a claim by a purchaser
4 of articles or services under this section that
5 damages or injury arose from the failure of the
6 Government to comply with quality, schedule, or
7 cost performance requirements in the contract
8 to carry out the activity.

9 “(d) METHODS OF PUBLIC-PRIVATE PARTNER-
10 SHIPS.—To conduct an activity of a public-private part-
11 nership under this section, the approval authority de-
12 scribed in subsection (f) for an Army industrial facility
13 may, in the exercise of good business judgment—

14 “(1) enter into a firm, fixed-price contract (or,
15 if agreed to by the purchaser, a cost reimbursement
16 contract) for a sale of articles or services or use of
17 equipment or facilities;

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

21 “(3) charge a partner the amounts necessary to
22 recover the full costs of the articles or services pro-
23 vided, including capital improvement costs, and
24 equipment depreciation costs associated with pro-
25 viding the articles, services, equipment, or facilities;

1 “(4) authorize a partner to use incremental
2 funding to pay for the articles, services, or use of
3 equipment or facilities; and

4 “(5) accept payment-in-kind.

5 “(e) DEPOSIT OF PROCEEDS.—(1) The proceeds of
6 sales of articles and services received in connection with
7 the use of an Army industrial facility under this section
8 shall be credited to the appropriation or working-capital
9 fund that incurs the variable costs of manufacturing the
10 articles or performing the services. Notwithstanding sec-
11 tion 3302(b) of title 31, the amount so credited with re-
12 spect to an Army industrial facility shall be available,
13 without further appropriation, as follows:

14 “(A) Amounts equal to the amounts of the vari-
15 able costs so incurred shall be available for the same
16 purposes as the appropriation or working-capital
17 fund to which credited.

18 “(B) Amounts in excess of the amounts of the
19 variable costs so incurred shall be available for oper-
20 ations, maintenance, and environmental restoration
21 at that Army industrial facility.

22 “(2) Amounts credited to a working-capital fund
23 under paragraph (1) shall remain available until expended.
24 Amounts credited to an appropriation under paragraph

1 (1) shall remain available for the same period as the ap-
2 propriation to which credited.

3 “(f) APPROVAL OF SALES.—The authority of an
4 Army industrial facility to conduct a public-private part-
5 nership under this section shall be exercised at the level
6 of the commander of the major subordinate command of
7 the Army that has responsibility for the facility. The com-
8 mander may approve such partnership on a case basis or
9 a class basis.

10 “(g) COMMERCIAL SALES.—Except in the case of
11 work performed for the Department of Defense, for a con-
12 tract of the Department of Defense, for foreign military
13 sales, or for authorized foreign direct commercial sales
14 (defense articles or defense services sold to a foreign gov-
15 ernment or international organization under export con-
16 trols), a sale of articles or services may be made under
17 this section only if the approval authority described in sub-
18 section (f) determines that the articles or services are not
19 available from a commercial source located in the United
20 States in the required quantity or quality, or within the
21 time required.

22 “(h) EXCLUSION FROM DEPOT-LEVEL MAINTENANCE AND REPAIR PERCENTAGE LIMITATION.—
23 Amounts expended for depot-level maintenance and repair
24 workload by non-Federal personnel at an Army industrial
25

1 facility shall not be counted for purposes of applying the
2 percentage limitation in section 2466(a) of this title if the
3 personnel are provided by a non-Army entity pursuant to
4 a public-private partnership established under this section.

5 “(i) RELATIONSHIP TO OTHER LAWS.—Nothing in
6 this section shall be construed to affect the application
7 of—

8 “(1) foreign military sales and the export con-
9 trols provided for in sections 30 and 38 of the Arms
10 Export Control Act (22 U.S.C. 2770 and 2778) to
11 activities of a public-private partnership under this
12 section; and

13 “(2) section 2667 of this title to leases of non-
14 excess property in the administration of a public-pri-
15 vate partnership under this section.

16 “(j) DEFINITIONS.—In this section:

17 “(1) The term ‘Army industrial facility’ in-
18 cludes an ammunition plant, an arsenal, a depot,
19 and a manufacturing plant.

20 “(2) The term ‘non-Army entity’ includes the
21 following:

22 “(A) An executive agency.

23 “(B) An entity in industry or commercial
24 sales.

1 “(C) A State or political subdivision of a
2 State.

3 “(D) An institution of higher education or
4 vocational training institution.

5 “(3) The term ‘incremental funding’ means a
6 series of partial payments that—

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

11 “(B) result in full payment being com-
12 pleted as the required work is being completed.

13 “(4) The term ‘full costs’, with respect to arti-
14 cles or services provided under this section, means
15 the variable costs and the fixed costs that are di-
16 rectly related to the production of the articles or the
17 provision of the services.

18 “(5) The term ‘variable costs’ means the costs
19 that are expected to fluctuate directly with the vol-
20 ume of sales or services provided or the use of equip-
21 ment or facilities.”.

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

“4544. Army industrial facilities: public-private partnerships.”.

1 **SEC. 365. PROGRAM TO COMMEMORATE 60TH ANNIVER-**
2 **SARY OF WORLD WAR II.**

3 (a) IN GENERAL.—For fiscal year 2005, the Sec-
4 retary of Defense may conduct a program—

5 (1) to commemorate the 60th anniversary of
6 World War II; and

7 (2) to coordinate, support, and facilitate other
8 such commemoration programs and activities of the
9 Federal Government, State and local governments,
10 and other persons.

11 (b) PROGRAM ACTIVITIES.—The program referred to
12 in subsection (a) may include activities and ceremonies—

13 (1) to provide the people of the United States
14 with a clear understanding and appreciation of the
15 lessons and history of World War II;

16 (2) to thank and honor veterans of World War
17 II and their families;

18 (3) to pay tribute to the sacrifices and contribu-
19 tions made on the home front by the people of the
20 United States;

21 (4) to foster an awareness in the people of the
22 United States that World War II was the central
23 event of the 20th century that defined the postwar
24 world;

1 (5) to highlight advances in technology, science,
2 and medicine related to military research conducted
3 during World War II;

4 (6) to inform wartime and postwar generations
5 of the contributions of the Armed Forces of the
6 United States to the United States;

7 (7) to recognize the contributions and sacrifices
8 made by World War II allies of the United States;
9 and

10 (8) to highlight the role of the Armed Forces of
11 the United States, then and now, in maintaining
12 world peace through strength.

13 (c) ESTABLISHMENT OF ACCOUNT.—(1) There is es-
14 tablished in the Treasury of the United States an account
15 to be known as the “Department of Defense 60th Anniver-
16 sary of World War II Commemoration Account” which
17 shall be administered by the Secretary as a single account.

18 (2) There shall be deposited in the account, from
19 amounts appropriated to the Department of Defense for
20 operation and maintenance of Defense Agencies, such
21 amounts as the Secretary considers appropriate to conduct
22 the program referred to in subsection (a).

23 (3) The Secretary may use the funds in the account
24 established in paragraph (1) only for the purpose of con-
25 ducting the program referred to in subsection (a).

1 (4) Not later than 60 days after the termination of
2 the authority of the Secretary to conduct the program re-
3 ferred to in subsection (a), the Secretary shall transmit
4 to the Committees on Armed Services of the Senate and
5 House of Representatives a report containing an account-
6 ing of all the funds deposited into and expended from the
7 account or otherwise expended under this section, and of
8 any amount remaining in the account. Unobligated funds
9 which remain in the account after termination of the au-
10 thority of the Secretary under this section shall be held
11 in the account until transferred by law after the Commit-
12 tees receive the report.

13 (d) ACCEPTANCE OF VOLUNTARY SERVICES.—(1)
14 Notwithstanding section 1342 of title 31, United States
15 Code, the Secretary may accept from any person voluntary
16 services to be provided in furtherance of the program re-
17 ferred to in subsection (a).

18 (2) A person providing voluntary services under this
19 subsection shall be considered to be an employee for the
20 purposes of chapter 81 of title 5, United States Code, re-
21 lating to compensation for work-related injuries. Such a
22 person who is not otherwise employed by the Federal Gov-
23 ernment shall not be considered to be a Federal employee
24 for any other purposes by reason of the provision of such
25 service.

1 (3) The Secretary may reimburse a person providing
2 voluntary services under this subsection for incidental ex-
3 penses incurred by such person in providing such services.
4 The Secretary shall determine which expenses are eligible
5 for reimbursement under this paragraph.

6 **SEC. 366. MEDIA COVERAGE OF THE RETURN TO THE**
7 **UNITED STATES OF THE REMAINS OF DE-**
8 **CEASED MEMBERS OF THE ARMED FORCES**
9 **FROM OVERSEAS.**

10 (a) FINDINGS.—Congress makes the following find-
11 ings:

12 (1) The Department of Defense, since 1991,
13 has relied on a policy of no media coverage of the
14 transfers of the remains of members Ramstein Air
15 Force Base, Germany, nor at Dover Air Force Base,
16 Delaware, and the Port Mortuary Facility at Dover
17 Air Force Base, nor at interim stops en route to the
18 point of final destination in the transfer of the re-
19 mains.

20 (2) The principal focus and purpose of the pol-
21 icy is to protect the wishes and the privacy of fami-
22 lies of deceased members of the Armed Forces dur-
23 ing their time of great loss and grief and to give
24 families and friends of the dead the privilege to de-
25 cide whether to allow media coverage at the mem-

1 ber's duty or home station, at the interment site, or
2 at or in connection with funeral and memorial serv-
3 ices.

4 (3) In a 1991 legal challenge to the Depart-
5 ment of Defense policy, as applied during Operation
6 Desert Storm, the policy was upheld by the United
7 States District Court for the District of Columbia,
8 and on appeal, by the United States Court of Ap-
9 peals for the District of Columbia in the case of *JB*
10 *Pictures, Inc. v. Department of Defense and Donald*
11 *B. Rice, Secretary of the Air Force* on the basis that
12 denying the media the right to view the return of re-
13 mains at Dover Air Force Base does not violate the
14 first amendment guarantees of freedom of speech
15 and of the press.

16 (4) The United States Court of Appeals for the
17 District of Columbia in that case cited the following
18 two key Government interests that are served by the
19 Department of Defense policy:

20 (A) Reducing the hardship on the families
21 and friends of the war dead, who may feel obli-
22 gated to travel great distances to attend arrival
23 ceremonies at Dover Air Force Base if such
24 ceremonies were held.

1 (B) Protecting the privacy of families and
2 friends of the dead, who may not want media
3 coverage of the unloading of caskets at Dover
4 Air Force Base.

5 (5) The Court also noted, in that case, that the
6 bereaved may be upset at the public display of the
7 caskets of their loved ones and that the policy gives
8 the family the right to grant or deny access to the
9 media at memorial or funeral services at the home
10 base and that the policy is consistent in its concern
11 for families.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the Department of Defense policy regarding no
14 media coverage of the transfer of the remains of deceased
15 members of the Armed Forces appropriately protects the
16 privacy of the members' families and friends of and is con-
17 sistent with United States constitutional guarantees of
18 freedom of speech and freedom of the press.

19 **SEC. 367. TRACKING AND CARE OF MEMBERS OF THE**
20 **ARMED FORCES WHO ARE INJURED IN COM-**
21 **BAT.**

22 (a) FINDINGS.—The Senate makes the following
23 findings:

24 (1) Members of the Armed Forces of the
25 United States place themselves in harm's way in the

1 defense of democratic values and to keep the United
2 States safe.

3 (2) This call to duty has resulted in the ulti-
4 mate sacrifice of members of the Armed Forces of
5 the United States who are killed or critically injured
6 while serving the United States.

7 (b) SENSE OF SENATE.—It is the sense of the
8 Senate—

9 (1) to honor the sacrifice of the members of the
10 Armed Forces who have been killed or critically
11 wounded while serving the United States;

12 (2) to recognize the heroic efforts of the med-
13 ical personnel of the Armed Forces in treating
14 wounded military personnel and civilians; and

15 (3) to support advanced medical technologies
16 that assist the medical personnel of the Armed
17 Forces in saving lives and reducing disability rates
18 for members of the Armed Forces.

19 (c) POLICY ON TRACKING OF WOUNDED FROM COM-
20 BAT ZONES.—(1) Not later than 120 days after the date
21 of the enactment of this Act, the Secretary of Defense
22 shall—

23 (A) prescribe the policy of the Department of
24 Defense for providing timely notification to the next
25 of kin of the status, including health and location,

1 of members of the Armed Forces who are seriously
2 ill or injured in a combat zone; and

3 (B) transmit to the Committees on Armed
4 Services of the Senate and House of Representatives
5 a copy of the policy prescribed under subparagraph
6 (A).

7 (2) The policy prescribed under paragraph (1) shall
8 ensure respect for the expressed desires of individual mem-
9 bers of the Armed Forces regarding notification of next
10 of kin under the policy, and shall also include standards
11 of timeliness for the initial and continuing notification of
12 next of kin under the policy.

13 (d) FUNDING FOR MEDICAL EQUIPMENT AND COM-
14 BAT CASUALTY TECHNOLOGIES.—(1) The amount au-
15 thorized to be appropriated by section 201(4) for research,
16 development, test, and evaluation, Defense-wide activities,
17 is hereby increased by \$10,000,000, with the amount of
18 the increase to be allocated to Program Element
19 PE 0603826D8Z.

20 (2) Of the amount authorized to be appropriated by
21 section 201(4) for research, development, test, and evalua-
22 tion, Defense-wide activities, and allocated to Program
23 Element PE 0603826D8Z, as provided by paragraph (1),
24 \$10,000,000 may be available for medical equipment and
25 combat casualty care technologies.

1 (e) OFFSET.—The amount authorized to be appro-
 2 priated by section 421 is hereby reduced by \$10,000,000,
 3 with the amount of the reduction to be derived from excess
 4 amounts provided for military personnel of the Air Force.

5 **TITLE IV—MILITARY**
 6 **PERSONNEL AUTHORIZATIONS**
 7 **Subtitle A—Active Forces**

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

9 The Armed Forces are authorized strengths for active
 10 duty personnel as of September 30, 2005, as follows:

11 (1) The Army, 502,400, subject to the condi-
 12 tion that costs of active duty personnel of the Army
 13 in excess of 482,400 shall be paid out of funds au-
 14 thorized to be appropriated for fiscal year 2005 for
 15 a contingent emergency reserve fund or as an emer-
 16 gency supplemental appropriation.

17 (2) The Navy, 365,900.

18 (3) The Marine Corps, 175,000.

19 (4) The Air Force, 359,700.

20 **SEC. 402. ADDITIONAL AUTHORITY FOR INCREASES OF**
 21 **ARMY ACTIVE DUTY PERSONNEL END**
 22 **STRENGTHS FOR FISCAL YEARS 2005**
 23 **THROUGH 2009.**

24 (a) AUTHORITY.—During fiscal years 2005 through
 25 2009, the Secretary of Defense is authorized to increase

1 by up to 30,000 the end strength authorized for the Army
2 for such fiscal year under section 115(a)(1)(A) of title 10,
3 United States Code, as necessary to support the oper-
4 ational mission of the Army in Iraq and Afghanistan and
5 to achieve transformational reorganization objectives of
6 the Army, including objectives for increased numbers of
7 combat brigades, unit manning, force stabilization and
8 shaping, and rebalancing of the active and reserve compo-
9 nent forces of the Army.

10 (b) RELATIONSHIP TO PRESIDENTIAL WAIVER AU-
11 THORITY.—Nothing in this section shall be construed to
12 limit the President’s authority under section 123a of title
13 10, United States Code, to waive any statutory end
14 strength in a time of war or national emergency.

15 (c) RELATIONSHIP TO OTHER VARIANCE AUTHOR-
16 ITY.—The authority under subsection (a) is in addition
17 to the authority to vary authorized end strengths that is
18 provided in subsections (e) and (f) of section 115 of title
19 10, United States Code.

20 (d) BUDGET TREATMENT.—If the Secretary of De-
21 fense plans to increase the Army active duty end strength
22 for a fiscal year under subsection (a) of this section or
23 pursuant to a suspension of end-strength limitation under
24 section 123a of title 10, United States Code, then the
25 budget for the Department of Defense for such fiscal year

1 as submitted to Congress shall specify the amounts nec-
 2 essary for funding the active duty end strength of the
 3 Army in excess of 482,400 (the end strength authorized
 4 for active duty personnel of the Army for fiscal year 2004
 5 in section 401(1) of the National Defense Authorization
 6 Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat.
 7 1450)).

8 **SEC. 403. EXCLUSION OF SERVICE ACADEMY PERMANENT**
 9 **AND CAREER PROFESSORS FROM A LIMITA-**
 10 **TION ON CERTAIN OFFICER GRADE**
 11 **STRENGTHS.**

12 Section 523(b) of title 10, United States Code, is
 13 amended by adding at the end the following new para-
 14 graph:

15 “(8) Up to 50 permanent professors of each of
 16 the United States Military Academy and the United
 17 States Air Force Academy, and up to 50 professors
 18 of the United States Naval Academy who are career
 19 military professors (as defined in regulations pre-
 20 scribed by the Secretary of the Navy).”

21 **Subtitle B—Reserve Forces**

22 **SEC. 411. END STRENGTHS FOR SELECTED RESERVE.**

23 (a) IN GENERAL.—The Armed Forces are authorized
 24 strengths for Selected Reserve personnel of the reserve
 25 components as of September 30, 2005, as follows:

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

3 (2) The Army Reserve, 205,000.

4 (3) The Naval Reserve, 83,400.

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

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

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

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

10 (b) ADJUSTMENTS.—The end strengths prescribed by
11 subsection (a) for the Selected Reserve of any reserve com-
12 ponent shall be proportionately reduced by—

13 (1) the total authorized strength of units orga-
14 nized to serve as units of the Selected Reserve of
15 such component which are on active duty (other
16 than for training) at the end of the fiscal year; and

17 (2) the total number of individual members not
18 in units organized to serve as units of the Selected
19 Reserve of such component who are on active duty
20 (other than for training or for unsatisfactory partici-
21 pation in training) without their consent at the end
22 of the fiscal year.

23 Whenever such units or such individual members are re-
24 leased from active duty during any fiscal year, the end
25 strength prescribed for such fiscal year for the Selected

1 Reserve of such reserve component shall be proportion-
2 ately increased by the total authorized strengths of such
3 units and by the total number of such individual members.

4 **SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE**
5 **DUTY IN SUPPORT OF THE RESERVES.**

6 Within the end strengths prescribed in section
7 411(a), the reserve components of the Armed Forces are
8 authorized, as of September 30, 2005, the following num-
9 ber of Reserves to be serving on full-time active duty or
10 full-time duty, in the case of members of the National
11 Guard, for the purpose of organizing, administering, re-
12 cruiting, instructing, or training the reserve components:

13 (1) The Army National Guard of the United
14 States, 26,602.

15 (2) The Army Reserve, 14,970.

16 (3) The Naval Reserve, 14,152.

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

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

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

21 **SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS**
22 **(DUAL STATUS).**

23 The minimum number of military technicians (dual
24 status) as of the last day of fiscal year 2005 for the re-
25 serve components of the Army and the Air Force (notwith-

1 standing section 129 of title 10, United States Code) shall
2 be the following:

3 (1) For the Army Reserve, 7,299.

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

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

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

9 **SEC. 414. FISCAL YEAR 2005 LIMITATIONS ON NON-DUAL**
10 **STATUS TECHNICIANS.**

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

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

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

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

23 (3) The number of non-dual status technicians em-
24 ployed by the Air Force Reserve as of September 30,
25 2005, may not exceed 90.

1 (b) NON-DUAL STATUS TECHNICIANS DEFINED.—In
2 this section, the term “non-dual status technician” has the
3 meaning given the term in section 10217(a) of title 10,
4 United States Code.

5 **SEC. 415. AUTHORIZED STRENGTHS FOR MARINE CORPS**
6 **RESERVE OFFICERS IN ACTIVE STATUS IN**
7 **GRADES BELOW GENERAL OFFICER.**

8 (a) INCREASED STRENGTHS FOR FIELD GRADE AND
9 COMPANY GRADE OFFICERS.—Section 12005(c)(1), of
10 title 10, United States Code, is amended by amending the
11 table to read as follows:

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

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall take effect on October 1, 2004.

14 **Subtitle C—Authorizations of**
15 **Appropriations**

16 **SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILI-**
17 **TARY PERSONNEL.**

18 There is hereby authorized to be appropriated to the
19 Department of Defense for military personnel for fiscal
20 year 2005 a total of \$104,535,458,000. The authorization
21 in the preceding sentence supersedes any other authoriza-

1 tion of appropriations (definite or indefinite) for such pur-
 2 pose for fiscal year 2005.

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

4 There is hereby authorized to be appropriated for fis-
 5 cal year 2005 from the Armed Forces Retirement Home
 6 Trust Fund the sum of \$61,195,000 for the operation of
 7 the Armed Forces Retirement Home.

8 **TITLE V—MILITARY PERSONNEL**
 9 **POLICY**

10 **Subtitle A—Joint Officer Personnel**
 11 **Management**

12 **SEC. 501. MODIFICATION OF CONDITIONS OF ELIGIBILITY**
 13 **FOR WAIVER OF JOINT DUTY CREDIT RE-**
 14 **QUIREMENT FOR PROMOTION TO GENERAL**
 15 **OR FLAG OFFICER.**

16 (a) CAREER FIELD SPECIALTIES WITH NO JOINT
 17 REQUIREMENTS.—Paragraph (2) of section 619a(b) of
 18 title 10, United States Code, is amended by striking “sci-
 19 entific and technical qualifications” and inserting “career
 20 field specialty qualifications”.

21 (b) OFFICERS SELECTED FOR PROMOTION WHILE IN
 22 JOINT DUTY ASSIGNMENT.—Paragraph (4) of such sec-
 23 tion is amended by striking “if—” and all that follows
 24 and inserting “if the officer’s total consecutive service in
 25 joint duty assignments meets the requirements of section

1 664 of this title for credit for having completed a full tour
2 of duty in a joint duty assignment.”.

3 **SEC. 502. MANAGEMENT OF JOINT SPECIALTY OFFICERS.**

4 (a) EDUCATION AND EXPERIENCE REQUIRE-
5 MENTS.—(1) Subsection (c) of section 661 of title 10,
6 United States Code, is amended by striking paragraph (1)
7 and inserting the following: “(1) An officer shall have the
8 joint specialty (and shall be designated with a joint spe-
9 cialty officer identifier) upon—

10 “(A) successfully completing (in any se-
11 quence)—

12 “(i) a program accredited by Chairman of
13 the Joint Chiefs of Staff that is presented by
14 a joint professional military education institu-
15 tion; and

16 “(ii) a full tour of duty in a joint duty as-
17 signment; or

18 “(B) completing two full tours of duty in joint
19 duty assignments.”.

20 (2) Subsection (c) of such section is further
21 amended—

22 (A) by striking paragraphs (2) and (3); and

23 (B) by redesignating paragraph (4) as para-
24 graph (2).

1 (b) DESIGNATION OF JOINT SPECIALTY GENERAL
 2 AND FLAG OFFICER POSITIONS.—Section 661 of such
 3 title is further amended—

4 (1) by redesignating subsection (f) as sub-
 5 section (g); and

6 (2) by inserting after subsection (e) the fol-
 7 lowing new subsection (f):

8 “(f) JOINT SPECIALTY OFFICER DESIGNATION FOR
 9 GENERAL AND FLAG POSITIONS.—(1) The Secretary of
 10 Defense shall ensure that the general and flag officer posi-
 11 tions required to be filled by officers with the joint spe-
 12 cialty as joint duty assignments are designated as such.

13 “(2) An officer without the joint specialty may be as-
 14 signed to a position designated under paragraph (1) only
 15 if the Secretary of Defense determines that the assign-
 16 ment of that officer to such position is necessary and
 17 waives the requirement to assign an officer with the joint
 18 specialty to that position.”.

19 **SEC. 503. REVISED PROMOTION POLICY OBJECTIVES FOR**
 20 **JOINT OFFICERS.**

21 (a) QUALIFICATIONS.—Subsection (a) of section 662
 22 of title 10, United States Code, is amended to read as
 23 follows:

24 “(a) QUALIFICATIONS.—(1) The Secretary of a mili-
 25 tary department shall prescribe for the officers in each of

1 the armed forces under the jurisdiction of such Secretary
2 policies and procedures to ensure that an adequate num-
3 ber of senior colonels, or in the case of the Navy, senior
4 captains, who are serving in or have served in joint duty
5 assignments meet the requirements of section 619a of this
6 title for eligibility for promotion to brigadier general and
7 rear admiral (lower half).

8 “(2) The Secretary of Defense shall ensure that the
9 qualifications of officers assigned to joint duty assign-
10 ments are such that—

11 “(A) officers who are serving on or have served
12 on the Joint Staff are expected, as a group, to be
13 promoted to the next higher grade at a rate not less
14 than the rate for officers of the same armed force
15 in the same grade and competitive category who are
16 serving on the headquarters staff of their armed
17 force; and

18 “(B) officers who are serving in or have served
19 in joint duty assignments are expected, as a group,
20 to be promoted to the next higher grade at a rate
21 not less than the rate for all officers of the same
22 armed force in the same grade and competitive cat-
23 egory.

24 “(3) The Secretary of Defense shall prescribe policies
25 to ensure that the Secretaries of the military departments

1 provide for promotion selection boards to give appropriate
2 consideration to officers who are serving in or have served
3 in joint duty assignments and are eligible for consideration
4 by such boards.”.

5 (b) CONFORMING AMENDMENT.—Subsection (b) of
6 such section is amended by striking “paragraphs (1), (2),
7 and (3) of subsection (a)” and inserting “subparagraphs
8 (A) and (B) of subsection (a)(2)”.

9 **SEC. 504. LENGTH OF JOINT DUTY ASSIGNMENTS.**

10 Section 664 of title 10, United States Code, is
11 amended by striking subsection (b) and all that follows
12 and inserting the following new subsections:

13 “(b) FULL CREDIT FOR JOINT DUTY.—An officer
14 shall be credited with having completed a full tour of duty
15 in a joint duty assignment upon the completion of any of
16 the following:

17 “(1) Service in a joint duty assignment that
18 meets the standards of subsection (a).

19 “(2) Service in a joint duty assignment for a
20 period that equals or exceeds the standard length of
21 the joint duty assignments that is prescribed under
22 subsection (c) for the installation or other location
23 of the officer’s joint duty assignment.

1 “(3) Cumulative service of at least one year on
2 one or more headquarters staffs within a United
3 States or multinational joint task force.

4 “(4) Service in a second joint duty assignment
5 for not less than 24 months, without regard to how
6 much of the officer’s service in the first joint duty
7 assignment has been credited as service in a joint
8 duty assignment.

9 “(5) Any service in a joint duty assignment if
10 the Secretary of Defense has granted a waiver for
11 such officer under subsection (d).

12 “(c) STANDARD LENGTH OF JOINT DUTY ASSIGN-
13 MENTS.—The Secretary of Defense shall prescribe in reg-
14 ulations, for each installation and other location author-
15 ized joint duty assignment positions, the standard length
16 of the joint duty assignments in such positions at that in-
17 stallation or other location, as the case may be.

18 “(d) WAIVER AUTHORITY.—The Secretary of De-
19 fense may waive the applicability of this section in the case
20 of any particular officer if the Secretary determines that
21 it is in the national security interests of the United States
22 to do so.”.

1 **SEC. 505. REPEAL OF MINIMUM PERIOD REQUIREMENT**
 2 **FOR PHASE II JOINT PROFESSIONAL MILI-**
 3 **TARY EDUCATION.**

4 Section 663 of title 10, United States Code, is
 5 amended by striking subsection (e).

6 **SEC. 506. REVISED DEFINITIONS APPLICABLE TO JOINT**
 7 **DUTY.**

8 (a) **JOINT DUTY ASSIGNMENT.**—Subsection (b)(2) of
 9 section 668 of title 10, United States Code, is amended
 10 by striking “a list” in the matter preceding subparagraph
 11 (A) and inserting “a joint duty assignment list”.

12 (b) **TOUR OF DUTY.**—Subsection (c) of such section
 13 is amended to read as follows:

14 “(c) **TOUR OF DUTY.**—In this chapter, the term ‘tour
 15 of duty’ includes two or more consecutive tours of duty
 16 in joint duty assignment positions that is credited as serv-
 17 ice in a joint duty assignment under this chapter.”.

18 **Subtitle B—Other Officer**
 19 **Personnel Policy**

20 **SEC. 511. TRANSITION OF ACTIVE-DUTY LIST OFFICER**
 21 **FORCE TO A FORCE OF ALL REGULAR OFFI-**
 22 **CERS.**

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

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

4 (3)(A) Such section 532, as amended by paragraph
5 (1), is further amended by adding at the end the following
6 new subsection (e):

7 “(e) For an original appointment in a grade below
8 major or, in the case of the Navy, a grade below lieutenant
9 commander under subsection (a), the Secretary of Defense
10 may waive the applicability of the requirement of sub-
11 section (a)(1) to an alien lawfully admitted to permanent
12 residence in the United States when the Secretary deter-
13 mines that it is the national security interests of the
14 United States to do so.”.

15 (B) Section 619(d) of title 10, United States Code,
16 is amended by adding at the end the following new para-
17 graph:

18 “(5) An officer in the grade of captain or, in
19 the case of the Navy, lieutenant who is not a citizen
20 of the United States.”.

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

23 “(a)(1) Original appointments in the grades of sec-
24 ond lieutenant through captain in the Regular Army, Reg-
25 ular Air Force, and Regular Marine Corps and in the

1 grades of ensign through lieutenant in the Regular Navy
2 shall be made by the President. The President may dele-
3 gate to the Secretary of Defense authority to make such
4 appointments.

5 “(2) Original appointments in the grades of major,
6 lieutenant colonel, and colonel in the Regular Army, Reg-
7 ular Air Force, and Regular Marine Corps and in the
8 grades of lieutenant commander, commander, and captain
9 in the Regular Navy shall be made by the President, by
10 and with the advice and consent of the Senate.”.

11 (b) REPEAL OF TOTAL STRENGTH LIMITATION FOR
12 ACTIVE DUTY REGULAR COMMISSIONED OFFICERS.—(1)
13 Section 522 of title 10, United States Code, is repealed.

14 (2) The table of sections at the beginning of chapter
15 32 of such title is amended by striking the item relating
16 to section 522.

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

20 **“§ 647. Force shaping authority**

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

24 “(1) discharge an officer described in sub-
25 section (b); or

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

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

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

11 “(B) has completed more than 5 years of serv-
12 ice as a commissioned officer in the armed forces,
13 but has not completed a minimum service obligation
14 applicable to that member.

15 “(2) In this subsection, the term ‘minimum service
16 obligation’ means the initial period of required active duty
17 service together with any additional period of required ac-
18 tive duty service incurred during the initial period of re-
19 quired active duty service.

20 “(c) APPOINTMENT OF TRANSFERRED OFFICERS.—
21 An officer of the Regular Army, Regular Air Force, Reg-
22 ular Navy, or Regular Marine Corps who is transferred
23 to a reserve active-status list under this section shall be
24 discharged from the regular component concerned and ap-

1 pointed as a reserve commissioned officer under section
2 12203 of this title.

3 “(d) REGULATIONS.—The Secretary concerned shall
4 prescribe regulations for the exercise of the Secretary’s au-
5 thority under this section.”.

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

“647. Force shaping authority.”.

9 (2) Section 1174(e)(2)(B) of such title is amended
10 by inserting after “obligated service” the following: “, un-
11 less the member is an officer discharged or released under
12 the authority of section 647 of this title”.

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

14 (A) by inserting “(1)” after “(a)”;

15 (B) in the first sentence, by inserting “, except
16 as provided in paragraph (2),” after “the armed
17 force concerned and”; and

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

20 “(2) An officer transferred from the active-duty list
21 of an armed force to a reserve active-status list of an
22 armed force under section 647 of this title is not required
23 to subscribe to the oath referred to in paragraph (1) in
24 order to qualify for an appointment under that para-
25 graph.”.

1 (4) Section 12203 of such title is amended—

2 (A) by redesignating subsection (b) as sub-
3 section (c); and

4 (B) by inserting after subsection (a) the fol-
5 lowing new subsection (b):

6 “(b) Subject to the authority, direction, and control
7 of the President, the Secretary concerned may appoint as
8 a reserve commissioned officer any regular officer trans-
9 ferred from the active-duty list of an armed force to the
10 reserve active-status list of a reserve component under sec-
11 tion 647 of this title, notwithstanding the requirements
12 of subsection (a).”.

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

15 “(c) Subject to the authority, direction, and control
16 of the President, an original appointment as a commis-
17 sioned officer in the Regular Army, Regular Air Force,
18 Regular Navy, or Regular Marine Corps may be made by
19 the Secretary concerned in the case of a reserve commis-
20 sioned officer upon the transfer of such officer from the
21 reserve active-status list of a reserve component of the
22 armed forces to the active-duty list of an armed force, not-
23 withstanding the requirements of subsection (a).”.

24 (d) ACTIVE-DUTY READY RESERVE OFFICERS NOT
25 ON ACTIVE-DUTY LIST.—Section 641(1)(F) of such title

1 is amended by striking “section 12304” and inserting
2 “sections 12302 and 12304”.

3 (e) ALL REGULAR OFFICER APPOINTMENTS FOR
4 STUDENTS ATTENDING THE UNIVERSITY OF HEALTH
5 SCIENCES.—Section 2114(b) of such title is amended by
6 striking “Notwithstanding any other provision of law, they
7 shall serve” and all that follows through “if qualified,”
8 and inserting “Notwithstanding any other provision of
9 law, they shall be appointed as regular officers in the
10 grade of O–1 and shall serve on active duty in that grade.
11 Upon graduation they shall be required to serve on active
12 duty”.

13 (f) EFFECTIVE DATE.—This section and the amend-
14 ments made by this section shall take effect 180 days after
15 the date of the enactment of this Act.

16 **SEC. 512. ELIGIBILITY OF NAVY STAFF CORPS OFFICERS TO**
17 **SERVE AS DEPUTY CHIEFS OF NAVAL OPER-**
18 **ATIONS AND ASSISTANT CHIEFS OF NAVAL**
19 **OPERATIONS.**

20 (a) DEPUTY CHIEFS OF NAVAL OPERATIONS.—Sec-
21 tion 5036(a) of title 10, United States Code, is amended
22 by striking “in the line”.

23 (b) ASSISTANT CHIEFS OF NAVAL OPERATIONS.—
24 Section 5037(a) of such title is amended by striking “in
25 the line”.

1 **SEC. 513. ONE-YEAR EXTENSION OF AUTHORITY TO WAIVE**
2 **JOINT DUTY EXPERIENCE AS ELIGIBILITY RE-**
3 **QUIREMENT FOR APPOINTMENT OF CHIEFS**
4 **OF RESERVE COMPONENTS.**

5 Sections 3038(b)(4), 5143(b)(4), 5144(b)(4), and
6 8038(b)(4) of title 10, United States Code, are amended
7 by striking “December 31, 2004” and inserting “Decem-
8 ber 31, 2005”.

9 **SEC. 514. LIMITATION ON NUMBER OF OFFICERS FROCKED**
10 **TO MAJOR GENERAL AND REAR ADMIRAL**
11 **(UPPER HALF).**

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

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

16 (2) by striking “(d) LIMITATION ON NUMBER
17 OF OFFICERS FROCKED TO SPECIFIED GRADES.—”

18 and inserting the following:

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

1 **SEC. 515. STUDY REGARDING PROMOTION ELIGIBILITY OF**
2 **RETIRED WARRANT OFFICERS RECALLED TO**
3 **ACTIVE DUTY.**

4 (a) **REQUIREMENT FOR STUDY.**—The Secretary of
5 Defense shall carry out a study to determine whether it
6 would be equitable for retired warrant officers on active
7 duty, but not on the active-duty list by reason of section
8 582(2) of title 10, United States Code, to be eligible for
9 consideration for promotion under section 573 of such
10 title.

11 (b) **REPORT.**—Not later than 180 days after the date
12 of the enactment of this Act, the Secretary of Defense
13 shall submit to Congress a report on the results of the
14 study under subsection (a). The report shall include a dis-
15 cussion of the Secretary's determination regarding the
16 issue covered by the study, the rationale for the Sec-
17 retary's determination, and any recommended legislation
18 that the Secretary considers appropriate regarding that
19 issue.

1 **Subtitle C—Reserve Component**
2 **Personnel Policy**

3 **SEC. 521. REPEAL OF EXCLUSION OF ACTIVE DUTY FOR**
4 **TRAINING FROM AUTHORITY TO ORDER RE-**
5 **SERVES TO ACTIVE DUTY.**

6 (a) GENERAL AUTHORITY TO ORDER RESERVES TO
7 ACTIVE DUTY.—Section 12301 of title 10, United States
8 Code, is amended—

9 (1) in the first sentence of subsection (a), by
10 striking “(other than for training)”;

11 (2) in subsection (c)—

12 (A) by striking “(other than for training)”
13 and inserting “as described in subsection (a)”
14 in the first sentence; and

15 (B) by striking “(other than for training)”
16 in the second sentence; and

17 (3) in subsection (e), by striking “(other than
18 for training)” and inserting “as described in sub-
19 section (a)”.

20 (b) READY RESERVE 24-MONTH CALLUP AUTHOR-
21 ITY.—Section 12302 of such title is amended by striking
22 “(other than for training)” in subsections (a) and (c).

23 (c) SELECTED RESERVE AND INDIVIDUAL READY
24 RESERVE 270-DAY CALLUP AUTHORITY.—Section

1 12304(a) of such title is amended by striking “(other than
2 for training)”.

3 (d) STANDBY RESERVE CALLUP AUTHORITY.—Sec-
4 tion 12306 of such title is amended—

5 (1) in subsection (a), by striking “active duty
6 (other than for training) only as provided in section
7 12301 of this title” and inserting “active duty only
8 as provided in section 12301 of this title, but subject
9 to the limitations in subsection (b)”;

10 (2) in subsection (b)—

11 (A) in paragraph (1), by striking “(other
12 than for training)” and inserting “under section
13 12301(a) of this title”; and

14 (B) in paragraph (2), by striking “no other
15 member” and all that follows through “without
16 his consent” and inserting “notwithstanding
17 section 12301(a) of this title, no other member
18 in the Standby Reserve may be ordered to ac-
19 tive duty as an individual under such section
20 without his consent”.

21 **SEC. 522. EXCEPTION TO MANDATORY RETENTION OF RE-**
22 **SERVES ON ACTIVE DUTY TO QUALIFY FOR**
23 **RETIREMENT PAY.**

24 Section 12686(a) of title 10, United States Code, is
25 amended by inserting “(other than retired pay for non-

1 regular service under chapter 1223 of this title)” after “a
2 purely military retirement system”.

3 **Subtitle D—Education and**
4 **Training**

5 **SEC. 531. ONE-YEAR EXTENSION OF ARMY COLLEGE FIRST**
6 **PILOT PROGRAM.**

7 Section 573(h) of the National Defense Authorization
8 Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C.
9 513 note), is amended by striking “September 30, 2004”
10 and inserting “December 31, 2005”.

11 **SEC. 532. MILITARY RECRUITER EQUAL ACCESS TO CAM-**
12 **PUS.**

13 Subsection (b)(1) of section 983 of title 10, United
14 States Code, is amended—

15 (1) by striking “entry to campuses” and insert-
16 ing “access to campuses”; and

17 (2) by inserting before the semicolon at the end
18 the following: “in a manner that is at least equal in
19 quality and scope to the degree of access to cam-
20 puses and to students that is provided to any other
21 employer”.

1 **SEC. 533. EXCLUSION FROM DENIAL OF FUNDS FOR PRE-**
2 **VENTING ROTC ACCESS TO CAMPUS OF**
3 **AMOUNTS TO COVER INDIVIDUAL COSTS OF**
4 **ATTENDANCE AT INSTITUTIONS OF HIGHER**
5 **EDUCATION.**

6 (a) CODIFICATION AND EXTENSION OF EXCLU-
7 SION.—Subsection (d) of section 983 of title 10, United
8 States Code, is amended—

9 (1) by striking “The” after “(1)” and inserting
10 “Except as provided in paragraph (3), the”; and

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

13 “(3) Any Federal funding specified in paragraph (1)
14 that is provided to an institution of higher education, or
15 to an individual, to be available solely for student financial
16 assistance, related administrative costs, or costs associated
17 with attendance, may be used for the purpose for which
18 the funding is provided.”.

19 (b) CONFORMING AMENDMENTS.—Subsections (a)
20 and (b) of such section are amended by striking “(includ-
21 ing a grant of funds to be available for student aid)”.

22 (c) CONFORMING REPEAL OF CODIFIED PROVI-
23 SION.—Section 8120 of the Department of Defense Ap-
24 propriations Act, 2000 (Public Law 106–79; 10 U.S.C.
25 983 note), is repealed.

1 **SEC. 534. TRANSFER OF AUTHORITY TO CONFER DEGREES**
 2 **UPON GRADUATES OF THE COMMUNITY COL-**
 3 **LEGE OF THE AIR FORCE.**

4 (a) **AUTHORITY OF AIR UNIVERSITY COMMANDER.**—
 5 Subsection (a) of section 9317 of title 10, United States
 6 Code, is amended—

7 (1) by striking “and” at the end of paragraph

8 (2);

9 (2) by striking the period at the end of para-
 10 graph (3) and inserting “; and”; and

11 (3) by adding at the end the following new
 12 paragraph:

13 “(4) an associate level degree upon graduates of
 14 the Community College of the Air Force who fulfill
 15 the requirements for that degree.”.

16 (b) **TERMINATION OF EXISTING AUTHORITY.**—(1)
 17 Paragraph (1) of section 9315(c) of such title is amended
 18 by striking “the commander” and all that follows through
 19 “at the level of associate” and inserting “an academic de-
 20 gree at the level of associate may be conferred under sec-
 21 tion 9317 of this title”.

22 (2) Paragraph (2) of such section is amended by
 23 striking “Air Education and Training Command of the
 24 Air Force” and inserting “Air University”.

25 (c) **CONFORMING AND CLERICAL AMENDMENTS.**—

26 (1) The heading of section 9317 of title 10, United States

1 Code, is amended by striking “**graduate-level de-**
2 **grees**” and inserting “**conferral of degrees**”.

3 (2) The item relating to such section in the table of
4 sections at the beginning of chapter 901 of such title is
5 amended to read as follows:

“9317. Air University: conferral of degrees.”.

6 **SEC. 535. REPEAL OF REQUIREMENT FOR OFFICER TO RE-**
7 **TIRE UPON TERMINATION OF SERVICE AS SU-**
8 **PERINTENDENT OF THE AIR FORCE ACAD-**
9 **EMY.**

10 (a) REPEALS.—Sections 8921 and 9333a of title 10,
11 United States Code, are repealed.

12 (b) CLERICAL AMENDMENTS.—Subtitle D of title 10,
13 United States Code, is amended—

14 (1) in the table of sections at the beginning of
15 chapter 867, by striking the item relating to section
16 8921; and

17 (2) in the table of sections at the beginning of
18 chapter 903, by striking the item relating to section
19 9333a.

1 **Subtitle E—Decorations, Awards,**
 2 **and Commendations**

3 **SEC. 541. AWARD OF MEDAL OF HONOR TO INDIVIDUAL IN-**
 4 **TERRED IN THE TOMB OF THE UNKNOWNNS AS**
 5 **REPRESENTATIVE OF CASUALTIES OF A WAR.**

6 (a) AWARD TO INDIVIDUAL AS REPRESENTATIVE.—

7 Chapter 57 of title 10, United States Code, is amended
 8 by adding at the end the following new section:

9 **“§ 1134. Medal of honor: award to individual interred**
 10 **in Tomb of the Unknowns as representa-**
 11 **tive of casualties of a war**

12 “The medal of honor awarded posthumously to a de-
 13 ceased member of the armed forces who, as an unidenti-
 14 fied casualty of a particular war or other armed conflict,
 15 is interred in the Tomb of the Unknowns at Arlington Na-
 16 tional Cemetery, Virginia, is awarded to the member as
 17 the representative of the members of the armed forces who
 18 died in such war or other armed conflict and whose re-
 19 mains have not been identified, and not to the individual
 20 personally.”.

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

“1134. Medal of honor: award to individual interred in Tomb of the Unknowns
 as representative of casualties of a war.”.

1 **SEC. 542. SEPARATE CAMPAIGN MEDALS FOR OPERATION**
2 **ENDURING FREEDOM AND FOR OPERATION**
3 **IRAQI FREEDOM.**

4 (a) **REQUIREMENT.**—The President shall establish a
5 campaign medal specifically to recognize service by mem-
6 bers of the uniformed services in Operation Enduring
7 Freedom and a separate campaign medal specifically to
8 recognize service by members of the uniformed services in
9 Operation Iraqi Freedom.

10 (b) **ELIGIBILITY.**—Subject to such limitations as may
11 be prescribed by the President, eligibility for a campaign
12 medal established pursuant to subsection (a) shall be set
13 forth in regulations to be prescribed by the Secretary con-
14 cerned (as defined in section 101 of title 10, United States
15 Code). In the case of regulations prescribed by the Secre-
16 taries of the military departments, the regulations shall
17 be subject to approval by the Secretary of Defense and
18 shall be uniform throughout the Department of Defense.

19 **SEC. 543. PLAN FOR REVISED CRITERIA AND ELIGIBILITY**
20 **REQUIREMENTS FOR AWARD OF COMBAT IN-**
21 **FANTRYMAN BADGE AND COMBAT MEDICAL**
22 **BADGE FOR SERVICE IN KOREA AFTER JULY**
23 **28, 1953.**

24 (a) **REQUIREMENT FOR PLAN.**—Not later than 90
25 days after the date of the enactment of this Act, the Sec-
26 retary of the Army shall submit to the Committees on

1 Armed Services of the Senate and the House of Represent-
 2 atives a plan for revising the Army's criteria and eligibility
 3 requirements for award of the Combat Infantryman Badge
 4 and the Combat Medical Badge for service in the Republic
 5 of Korea after July 28, 1953, to fulfill the purpose stated
 6 in subsection (b).

7 (b) PURPOSE OF REVISED CRITERIA AND ELIGI-
 8 BILITY REQUIREMENTS.—The purpose for revising the
 9 criteria and eligibility requirements for award of the Com-
 10 bat Infantryman Badge and the Combat Medical Badge
 11 for service in the Republic of Korea after July 28, 1953,
 12 is to ensure fairness in the standards applied to Army per-
 13 sonnel in the awarding of such badges for Army service
 14 in the Republic of Korea in comparison to the standards
 15 applied to Army personnel in the awarding of such badges
 16 for Army service in other areas of operations.

17 **Subtitle F—Military Justice**

18 **SEC. 551. REDUCED BLOOD ALCOHOL CONTENT LIMIT FOR** 19 **OFFENSE OF DRUNKEN OPERATION OF A VE-** 20 **HICLE, AIRCRAFT, OR VESSEL.**

21 Section 911(b)(3) of title 10, United States Code (ar-
 22 ticle 111(b)(3) of the Uniform Code of Military Justice),
 23 is amended by striking “0.10 grams” in both places it ap-
 24 pears and inserting “0.08 grams”.

1 **SEC. 552. WAIVER OF RECOUPMENT OF TIME LOST FOR**
2 **CONFINEMENT IN CONNECTION WITH A**
3 **TRIAL.**

4 Section 972 of title 10, United States Code, is
5 amended by adding at the end the following new sub-
6 section:

7 “(c) **WAIVER OF RECOUPMENT OF TIME LOST FOR**
8 **CONFINEMENT.**—The Secretary concerned shall waive li-
9 ability for a period of confinement in connection with a
10 trial under subsection (a)(3), or exclusion of a period of
11 confinement in connection with a trial under subsection
12 (b)(3), in a case upon the occurrence of any of the fol-
13 lowing events:

14 “(1) For each charge—

15 “(A) the charge is dismissed before or dur-
16 ing trial in a final disposition of the charge; or

17 “(B) the trial results in an acquittal of the
18 charge.

19 “(2) For each charge resulting in a conviction
20 in such trial—

21 “(A) the conviction is set aside in a final
22 disposition of such charge, other than in a
23 grant of clemency; or

24 “(B) a judgment of acquittal or a dis-
25 missal is entered upon a reversal of the convic-
26 tion on appeal.”.

1 **SEC. 553. DEPARTMENT OF DEFENSE POLICY AND PROCE-**
2 **DURES ON PREVENTION AND RESPONSE TO**
3 **SEXUAL ASSAULTS INVOLVING MEMBERS OF**
4 **THE ARMED FORCES.**

5 (a) COMPREHENSIVE POLICY ON PREVENTION AND
6 RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than
7 January 1, 2005, the Secretary of Defense shall develop
8 a comprehensive policy for the Department of Defense on
9 the prevention of and response to sexual assaults involving
10 members of the Armed Forces.

11 (2) The policy shall be based on the recommendations
12 of the Department of Defense Task Force on Care for Vic-
13 tims of Sexual Assaults and on such other matters as the
14 Secretary considers appropriate.

15 (b) ELEMENTS OF COMPREHENSIVE POLICY.—The
16 policy developed under subsection (a) shall address the fol-
17 lowing matters:

18 (1) Prevention measures.

19 (2) Education and training on prevention and
20 response.

21 (3) Investigation of complaints by command
22 and law enforcement personnel.

23 (4) Medical treatment of victims.

24 (5) Confidential reporting of incidents.

25 (6) Victim advocacy and intervention.

1 (7) Oversight by commanders of administrative
2 and disciplinary actions in response to substantiated
3 incidents of sexual assault.

4 (8) Disposition of victims of sexual assault, in-
5 cluding review by appropriate authority of adminis-
6 trative separation actions involving victims of sexual
7 assault.

8 (9) Disposition of members of the Armed
9 Forces accused of sexual assault.

10 (10) Liaison and collaboration with civilian
11 agencies on the provision of services to victims of
12 sexual assault.

13 (11) Uniform collection of data on the incidence
14 of sexual assaults and on disciplinary actions taken
15 in substantiated cases of sexual assault.

16 (c) REPORT ON IMPROVEMENT OF CAPABILITY TO
17 RESPOND TO SEXUAL ASSAULTS.—Not later than March
18 1, 2005, the Secretary of Defense shall submit to Congress
19 a proposal for such legislation as the Secretary considers
20 necessary to enhance the capability of the Department of
21 Defense to address matters relating to sexual assaults in-
22 volving members of the Armed Forces.

23 (d) APPLICATION OF COMPREHENSIVE POLICY TO
24 MILITARY DEPARTMENTS.—The Secretary shall ensure
25 that, to the maximum extent practicable, the policy devel-

1 oped under subsection (a) is implemented uniformly by the
2 military departments.

3 (e) POLICIES AND PROCEDURES OF MILITARY DE-
4 PARTMENTS.—(1) Not later than March 1, 2005, the Sec-
5 retaries of the military departments shall prescribe regula-
6 tions, or modify current regulations, on the policies and
7 procedures of the military departments on the prevention
8 of and response to sexual assaults involving members of
9 the Armed Forces in order—

10 (A) to conform such policies and procedures to
11 the policy developed under subsection (a); and

12 (B) to ensure that such policies and procedures
13 include the elements specified in paragraph (2).

14 (2) The elements specified in this paragraph are as
15 follows:

16 (A) A program to promote awareness of the in-
17 cidence of sexual assaults involving members of the
18 Armed Forces.

19 (B) A program to provide victim advocacy and
20 intervention for members of the Armed Force con-
21 cerned who are victims of sexual assault, which pro-
22 gram shall make available, at home stations and in
23 deployed locations, trained advocates who are readily
24 available to intervene on behalf of such victims.

1 (C) Procedures for members of the Armed
2 Force concerned to follow in the case of an incident
3 of sexual assault involving a member of such Armed
4 Force, including—

5 (i) specification of the person or persons to
6 whom the alleged offense should be reported;

7 (ii) specification of any other person whom
8 the victim should contact;

9 (iii) procedures for the preservation of evi-
10 dence; and

11 (iv) procedures for confidential reporting
12 and for contacting victim advocates.

13 (D) Procedures for disciplinary action in cases
14 of sexual assault by members of the Armed Force
15 concerned.

16 (E) Other sanctions authorized to be imposed
17 in substantiated cases of sexual assault, whether
18 forcible or nonforcible, by members of the Armed
19 Force concerned.

20 (F) Training on the policies and procedures for
21 all members of the Armed Force concerned, includ-
22 ing specific training for members of the Armed
23 Force concerned who process allegations of sexual
24 assault against members of such Armed Force.

1 (G) Any other matters that the Secretary of
2 Defense considers appropriate.

3 (f) ANNUAL ASSESSMENT OF POLICIES AND PROCE-
4 DURES.—Not later than January 15, 2006, and each year
5 thereafter, each Secretary of a military department shall
6 conduct an assessment of the implementation during the
7 preceding fiscal year of the policies and procedures of such
8 department on the prevention of and response to sexual
9 assaults involving members of the Armed Forces in order
10 to determine the effectiveness of such policies and proce-
11 dures during such fiscal year in providing an appropriate
12 response to such sexual assaults.

13 (g) ANNUAL REPORTS.—(1) Not later than April 1,
14 2005, and January 15 of each year thereafter, each Sec-
15 retary of a military department shall submit to the Sec-
16 retary of Defense a report on the sexual assaults involving
17 members of the Armed Force concerned during the pre-
18 ceding year.

19 (2) Each report on an Armed Force under paragraph
20 (1) shall contain the following:

21 (A) The number of sexual assaults against
22 members of the Armed Force, and the number of
23 sexual assaults by members of the Armed Force,
24 that were reported to military officials during the

1 year covered by such report, and the number of the
2 cases so reported cases that were substantiated.

3 (B) A synopsis of and the disciplinary action
4 taken in each substantiated case.

5 (C) The policies, procedures, and processes im-
6 plemented by the Secretary concerned during the
7 year covered by such report in response to incidents
8 of sexual assault involving members of the Armed
9 Force concerned.

10 (D) A plan for the actions that are to be taken
11 in the year following the year covered by such report
12 on the prevention of and response to sexual assault
13 involving members of the Armed Forces concerned.

14 (3) Each report under paragraph (1) in 2006, 2007,
15 and 2008 shall also include the assessment conducted by
16 the Secretary concerned under subsection (f).

17 (4) The Secretary of Defense shall transmit to the
18 Committees on Armed Services of the Senate and the
19 House of Representatives each report submitted to the
20 Secretary under this subsection, together with the com-
21 ments of the Secretary on each such report. The Secretary
22 shall transmit the report on 2004 not later than May 1,
23 2005, and shall transmit the report on any year after
24 2004 not later than March 15 of the year following such
25 year.

1 (h) SEXUAL ASSAULT DEFINED.—In this section, the
 2 term “sexual assault” includes rape, acquaintance rape,
 3 sexual assault, and other criminal sexual offenses.

4 **Subtitle G—Scope of Duties of**
 5 **Ready Reserve Personnel in In-**
 6 **active Duty Status**

7 **SEC. 561. REDESIGNATION OF INACTIVE-DUTY TRAINING**
 8 **TO ENCOMPASS OPERATIONAL AND OTHER**
 9 **DUTIES PERFORMED BY RESERVES WHILE IN**
 10 **INACTIVE DUTY STATUS.**

11 (a) REDESIGNATION OF DUTY STATUS.—(1) The
 12 duty status applicable to members of the reserve compo-
 13 nents of the Armed Forces that is known as “inactive-
 14 duty training” is redesignated as “inactive duty”.

15 (2) Any reference that is made in any law, regulation,
 16 document, paper, or other record of the United States to
 17 inactive-duty training, as such term applies to members
 18 of the reserve components of the Armed Forces, shall be
 19 deemed to be a reference to inactive duty.

20 (b) TITLE 10 CONFORMING AND CLERICAL AMEND-
 21 MENTS.—(1) The following provisions of title 10, United
 22 States Code, are amended by striking “inactive-duty train-
 23 ing” each place it appears and inserting “inactive duty”:
 24 sections 101(d)(7), 802(a)(3), 802(d)(2)(B),
 25 802(d)(5)(B), 803(d), 936(a), 936(b), 976(a)(1)(C),

1 1061(b), 1074a(a), 1076(a)(2)(B), 1076(a)(2)(C),
2 1204(2), 1448(f)(1)(B), 1476(a)(1)(B), 1476(a)(2)(A),
3 1481(a)(2), 9446(a)(3), 12602(a)(3), 12602(b)(3), and
4 18505(a).

5 (2) The following provisions of such title are amended
6 by striking “inactive duty training” each place it appears
7 and inserting “inactive duty”: sections 1086(e)(2)(B),
8 1175(e)(2), 1475(a)(2), 1475(a)(3), 2031(d)(2), and
9 10204(b).

10 (3) Section 1206(2) of such title is amended by strik-
11 ing “in line of duty—” and all that follows through “resi-
12 dence; or” and inserting the following: “in line of duty
13 while—

14 (A) performing active duty or inactive
15 duty;

16 (B) traveling directly to or from the place
17 at which such duty is performed; or

18 (C) remaining overnight immediately be-
19 fore the commencement of inactive duty, or
20 while remaining overnight between successive
21 periods of inactive-duty training, at or in the vi-
22 cinity of the site of the inactive duty, if the site
23 is outside reasonable commuting distance of the
24 member’s residence;”.

1 (4) Section 1471(b)(3)(A) of such title is amended
2 by striking “for training” in clauses (ii) and (iii).

3 (5) Section 1478(a) of such title is amended—

4 (A) in paragraph (3)—

5 (i) by striking “from inactive duty train-
6 ing” and inserting “from the location of inac-
7 tive duty”; and

8 (ii) by striking “on inactive duty training”
9 and inserting “on inactive duty”;

10 (B) in paragraph (7)—

11 (i) by striking “inactive duty training” and
12 inserting “inactive duty”; and

13 (ii) by striking “or training”; and

14 (C) in paragraph (8), by striking “inactive duty
15 training” both places it appears and inserting “inac-
16 tive duty”.

17 (6) Section 12317 of such title is amended by striking
18 “, or to participate in inactive duty training,” and insert-
19 ing “inactive duty”.

20 (7) Section 12319(c) of such title is amended—

21 (A) by striking “inactive-duty training” both
22 places it appears and inserting “inactive duty”; and

23 (B) by striking “that training)” and inserting
24 “that duty”).

25 (8) Section 12603(a) of such title is amended—

1 (A) by striking “inactive duty training” and in-
2 serting “inactive duty”; and

3 (B) by striking “the training” and inserting
4 “such duty”.

5 (9) Section 12604(a) of such title is amended by
6 striking “to inactive-duty training” and inserting “to per-
7 form inactive duty”.

8 (10)(A) The headings for sections 1204, 1206,
9 12603, and 18505 of such title are amended by striking
10 “**inactive-duty training**” and inserting “**inactive**
11 **duty**”.

12 (B) The heading for section 1475 of such title is
13 amended by striking “**training**”.

14 (C) The heading for section 1476 of such title is
15 amended by striking “**or training**”.

16 (D) The heading for section 12604 of such title is
17 amended by striking “**attending inactive-duty**
18 **training**” and inserting “**performing inactive**
19 **duty**”.

20 (11)(A) The table of sections at the beginning of
21 chapter 61 of such title is amended—

22 (i) by striking the item relating to section 1204
23 and inserting the following:

“1204. Members on active duty for 30 days or less or on inactive duty: retire-
ment.”;

24 and

1 (ii) by striking the item relating to section 1206
2 and inserting the following:

“1206. Members on active duty for 30 days or less or on inactive duty: separation.”.

3 (B) The table of sections at the beginning of sub-
4 chapter II of chapter 75 of such title is amended by strik-
5 ing the items relating to sections 1475 and 1476 and in-
6 serting the following:

“1475. Death gratuity: death of members on active duty or inactive duty and of certain other persons.

“1476. Death gratuity: death after discharge or release from duty.”.

7 (C) The table of sections at the beginning of chapter
8 1217 of such title is amended by striking the items relat-
9 ing to sections 12603 and 12604 and inserting the fol-
10 lowing:

“12603. Attendance of inactive duty assemblies: commercial travel at Federal supply schedule rates.

“12604. Billeting in Department of Defense facilities: Reserves performing inactive duty.”.

11 (D) The item relating to section 18505 in the table
12 of sections at the beginning of chapter 1805 of such title
13 is amended to read as follows:

“18505. Reserves traveling for inactive duty: space-required travel on military aircraft.”.

14 (c) TITLE 14 CONFORMING AMENDMENT.—Sections
15 704 and 705(a) of title 14, United States Code, are
16 amended by striking “inactive-duty training” and insert-
17 ing “inactive duty”.

18 (d) TITLE 37 CONFORMING AND CLERICAL AMEND-
19 MENTS.—(1) Sections 101(22), 205(e)(2)(A), and 433(d)

1 of title 37, United States Code, are amended by striking
2 “inactive-duty training” each place it appears and insert-
3 ing “inactive duty”.

4 (2) Section 204 of such title is amended—

5 (A) in subsection (g)(1)—

6 (i) in subparagraphs (B) and (D), by strik-
7 ing “inactive-duty training” each place it ap-
8 pears and inserting “inactive duty” and

9 (ii) in subparagraph (C), by striking “or
10 training”; and

11 (B) in subsection (h)(1)—

12 (i) in subparagraphs (B) and (D), by strik-
13 ing “inactive-duty training” each place it ap-
14 pears and inserting “inactive duty”; and

15 (ii) in subparagraph (C), by striking “or
16 training”; and

17 (3) Section 206 of such title is amended—

18 (A) in subsection (a)(3)—

19 (i) by striking clause (ii) of subparagraph
20 (A) and inserting the following:

21 “(ii) inactive duty;”;

22 (ii) in subparagraph (B), by striking “or
23 training”; and

1 (iii) in subparagraph (C), by striking “in-
2 active-duty training” each place it appears and
3 inserting “inactive duty”; and

4 (B) in subsection (b)(1), by inserting “or duty”
5 after “kind of training”.

6 (4) Section 308d(a) of such title is amended by strik-
7 ing “for training”.

8 (5) Section 415 of such title is amended—

9 (A) in subsection (a)(3), by striking “inactive-
10 duty training” and inserting “inactive duty”; and

11 (B) in subsection (c)(1), by striking “on inae-
12 tive duty training status” and inserting “inactive
13 duty”.

14 (6) Section 552 of such title is amended—

15 (A) in subsection (a)—

16 (i) by striking “performing inactive-duty
17 training,” in the matter preceding paragraph
18 (1), and inserting “inactive duty,”; and

19 (ii) by striking “or inactive-duty training”
20 in the second sentence and inserting “or inae-
21 tive duty”; and

22 (B) in subsection (d), by striking “inactive-duty
23 training” and inserting “on inactive duty”.

1 (7)(A) The heading for section 206 of such title is
 2 amended by striking “**inactive-duty training**” and
 3 inserting “**inactive duty**”.

4 (B) The item relating to such section in the table of
 5 sections at the beginning of chapter 3 of such title is
 6 amended to read as follows:

“206. Reserves; members of National Guard: inactive duty.”.

7 (8) The heading for subsection (c) of section 305b
 8 of such title is amended by striking “DUTY
 9 TRAINING.—” and inserting “DUTY.—”.

10 (9) The heading for subsection (e) of section 320 of
 11 such title is amended by striking “DUTY
 12 TRAINING.—” and inserting “DUTY.—”.

13 (e) PUBLIC LAW 108–136.—Section 644(c) of the
 14 National Defense Authorization Act for Fiscal Year 2004
 15 (Public Law 108–136; 117 Stat. 1518) is amended by
 16 striking “inactive-duty training” and inserting “inactive
 17 duty”.

18 **SEC. 562. REPEAL OF UNNECESSARY DUTY STATUS DIS-**
 19 **TINCTION FOR FUNERAL HONORS DUTY.**

20 (a) TITLE 10 DUTY.—(1) Section 12503 of title 10,
 21 United States Code, is repealed.

22 (2) Section 12552 of such title is repealed.

23 (b) TITLE 32 DUTY.—(1) Section 115 of title 32,
 24 United States Code, is repealed.

1 (2) Section 114 of such title is amended by striking
2 the second sentence.

3 (c) TITLE 10 CONFORMING AND CLERICAL AMEND-
4 MENTS.—Title 10, United States Code, is amended as fol-
5 lows:

6 (1) Section 1074a(a) is amended—

7 (A) in paragraph (1)—

8 (i) by inserting “or” at the end of
9 subparagraph (A);

10 (ii) by striking “; or” at the end of
11 subparagraph (B) and inserting a period;
12 and

13 (iii) by striking subparagraph (C);

14 (B) in paragraph (2)—

15 (i) by inserting “or” at the end of
16 subparagraph (A);

17 (ii) by striking “; or” at the end of
18 subparagraph (B) and inserting a period;
19 and

20 (iii) by striking subparagraph (C);

21 and

22 (C) by striking paragraph (4).

23 (2) Section 1076(a)(2) is amended by striking
24 subparagraph (E).

25 (3) Section 1204(2) is amended—

1 (A) by inserting “or” at the end of sub-
2 paragraph (A)(iii);

3 (B) by striking “or” at the end of subpara-
4 graph (B)(iii) and inserting a period; and

5 (C) by striking subparagraph (C).

6 (4) Section 1206(2) is amended by striking
7 “(B) while the member—” and all that follows
8 through “immediately before so serving;”.

9 (5) Section 1481(a)(2) is amended—

10 (A) by inserting “or” at the end of sub-
11 paragraph (D);

12 (B) by striking “; or” at the end of sub-
13 paragraph (E) and inserting a period; and

14 (C) by striking subparagraph (F).

15 (6) Section 12732(a)(2)(E) is amended by in-
16 serting “(as such section 12503 or 115, respectively,
17 was in effect before the date of the enactment of the
18 National Defense Authorization Act for Fiscal Year
19 2005)” after “section 115 of title 32”.

20 (7)(A) The table of sections at the beginning of
21 chapter 1213 is amended by striking the item relat-
22 ing to section 12503.

23 (B) The table of sections at the beginning of
24 chapter 1215 is amended by striking the item relat-
25 ing to 12552.

1 (c) TITLE 32 CLERICAL AMENDMENT.—The table of
2 sections at the beginning of chapter 1 of title 32, United
3 States Code, is amended by striking the item relating to
4 section 115.

5 (d) TITLE 37 CONFORMING AMENDMENTS.—Section
6 204 of title 37, United States Code, is amended—

7 (1) in subsection (g)(1)—

8 (A) by inserting “or” at the end of sub-
9 paragraph (C);

10 (B) by striking “; or” at the end of sub-
11 paragraph (D) and inserting a period; and

12 (C) by striking subparagraph (E); and

13 (2) in subsection (h)(1)—

14 (A) by inserting “or” at the end of sub-
15 paragraph (C);

16 (B) by striking “; or” at the end of sub-
17 paragraph (D) and inserting a period; and

18 (C) by striking subparagraph (E).

19 **SEC. 563. CONFORMING AMENDMENTS TO OTHER LAWS RE-**
20 **FERRING TO INACTIVE-DUTY TRAINING.**

21 (a) TITLE 5.—Section 6323(a)(1) of title 5, United
22 States Code, is amended by striking “inactive-duty train-
23 ing” and inserting “inactive duty”.

24 (b) TITLE 38.—(1) The following provisions of title
25 38, United States Code, are amended by striking “inactive

1 duty training” each place it appears and inserting “inac-
2 tive duty”: sections 106(d)(1), 1112(c)(3)(A)(ii),
3 1302(b)(2), 1312(a)(2)(A), 1965(3), 1965(4), 1965(5),
4 1967(a)(1)(B), 1967(b), 1969(a)(3), 1977(e), 2402(2),
5 4303(13), and 4303(16).

6 (2) Section 1968 of such title is amended—

7 (A) by striking “inactive duty training” and in-
8 serting “inactive duty”—

9 (i) in subsection (a), in the matter pre-
10 ceeding paragraph (1);

11 (ii) in subsection (a)(3); and

12 (iii) in subsection (b)(2); and

13 (B) in subsection (a)(3)—

14 (i) by striking “such scheduled training pe-
15 riod” and inserting “such period of scheduled
16 duty”;

17 (ii) by striking “the date of such training”
18 and inserting “the date on which such duty pe-
19 riod ends”; and

20 (iii) by striking “such training terminated”
21 and inserting “on which such duty period
22 ends”.

1 **SEC. 564. CONFORMING AMENDMENTS TO OTHER LAWS RE-**
 2 **FERRING TO FUNERAL HONORS DUTY.**

3 (a) TITLE 5.—Section 6323(a)(1) of title 5, United
 4 States Code, is amended by striking “funeral honors duty
 5 (as described in section 12503 of title 10 and section 115
 6 of title 32),”.

7 (b) TITLE 38.—Section 4303(13) of title 38, United
 8 States Code, is amended—

9 (1) by inserting “and” after “full-time National
 10 Guard duty,”; and

11 (2) by striking “, and a period for which a per-
 12 son is absent from employment for the purpose of
 13 performing funeral honors duty as authorized by
 14 section 12503 of title 10 or section 115 of title 32.”.

15 **Subtitle H—Other Matters**

16 **SEC. 571. ACCESSION OF PERSONS WITH SPECIALIZED**
 17 **SKILLS.**

18 (a) INITIAL SERVICE OBLIGATION.—Subsection (a)
 19 of section 651 of title 10, United States Code, is
 20 amended—

21 (1) by inserting “(1)” after “(a)”;

22 (2) by striking “deferred under the next to the
 23 last sentence of section 6(d)(1) of the Military Selec-
 24 tive Service Act (50 U.S.C. App. 456(d)(1))” and in-
 25 serting “described in paragraph (3)”;

1 (3) by adding at the end the following new
2 paragraphs:

3 “(2) The Secretary concerned may—

4 “(A) waive the applicability of paragraph (1) to
5 a person who, as determined by the Secretary con-
6 cerned, is accessed into an armed force under the ju-
7 risdiction of that Secretary based on unique skills
8 acquired in a civilian occupation and is to serve in
9 that armed force in a specialty requiring those skills;
10 and

11 “(B) require any alternative period of obligated
12 service that the Secretary considers appropriate to
13 meet the needs of the armed force that such person
14 is entering.

15 “(3) The requirement under paragraph (1) does not
16 apply to a person who is deferred under the next to the
17 last sentence of section 6(d)(1) of the Military Selective
18 Service Act (50 U.S.C. App. 456(d)(1)).

19 (b) BASIC TRAINING PERIOD.—Subsection (e) of sec-
20 tion 671 of such title is amended—

21 (1) by redesignating paragraph (2) as para-
22 graph (3); and

23 (2) by striking “(e)(1)” and all that follows
24 through “Any such period” in the second sentence
25 of paragraph (1) and inserting the following:

1 “(c)(1) A period of basic training (or equivalent
2 training) shorter than 12 weeks may be established by the
3 Secretary concerned for members of the armed forces who,
4 as determined by the Secretary under regulations pre-
5 scribed under paragraph (3)—

6 “(A) have been credentialed in a medical pro-
7 fession or occupation and are serving in a health-
8 care occupational specialty; or

9 “(B) have unique skills acquired in a civilian
10 occupation and are to serve in a military specialty
11 or position requiring those skills.

12 “(2) Any period of basic training under paragraph
13 (1)”.

14 **SEC. 572. FEDERAL WRITE-IN BALLOTS FOR ABSENTEE**
15 **MILITARY VOTERS LOCATED IN THE UNITED**
16 **STATES.**

17 (a) DUTIES OF PRESIDENTIAL DESIGNEE.—Section
18 101(b)(3) of the Uniformed and Overseas Citizens Absen-
19 tee Voting Act (42 U.S.C. 1973ff(b)(3)) is amended by
20 striking “overseas voters” and inserting “absent uni-
21 formed services voters and overseas voters”.

22 (b) FEDERAL WRITE-IN ABSENTEE BALLOT.—Sec-
23 tion 103 of such Act (42 U.S.C. 1973ff-2) is amended—

1 (1) in subsection (a), by striking “overseas vot-
2 ers” and inserting “absent uniformed services voters
3 and overseas voters”;

4 (2) in subsection (b), by striking the second
5 sentence and inserting the following new sentence:
6 “A Federal write-in absentee ballot of an absent uni-
7 formed services voter or overseas voter shall not be
8 counted—

9 “(1) if the application of the absent uniformed
10 services voter or overseas voter for a State absentee
11 ballot is received by the appropriate State election
12 official after the later of—

13 “(A) the deadline of the State for receipt
14 of such application; or

15 “(B) the date that is 30 days before the
16 general election; or

17 “(2) if a State absentee ballot of the absent
18 uniformed services voter or overseas voter is received
19 by the appropriate State election official not later
20 than the deadline for receipt of the State absentee
21 ballot under State law.”;

22 (3) in subsection (c)(1), by striking “overseas
23 voter” and inserting “absent uniformed services
24 voter or overseas voter”;

1 (4) in subsection (d), by striking “overseas
2 voter” both places it appears and inserting “absent
3 uniformed services voter or overseas voter”; and

4 (5) in subsection (e)(2), by striking “overseas
5 voters” and inserting “absent uniformed services
6 voters and overseas voters”.

7 (c) CONFORMING AMENDMENTS.—(1) The heading
8 of section 103 of such Act is amended to read as follows:

9 **“SEC. 103. FEDERAL WRITE-IN ABSENTEE BALLOT IN GEN-
10 ERAL ELECTIONS FOR FEDERAL OFFICE FOR
11 ABSENT UNIFORMED SERVICES VOTERS AND
12 OVERSEAS VOTERS.”.**

13 (2) The subsection caption for subsection (d) of such
14 section is amended by striking “OVERSEAS VOTER” and
15 inserting “ABSENT UNIFORMED SERVICES VOTER OR
16 OVERSEAS VOTER”.

17 **SEC. 573. RENAMING OF NATIONAL GUARD CHALLENGE
18 PROGRAM AND INCREASE IN MAXIMUM FED-
19 ERAL SHARE OF COST OF STATE PROGRAMS
20 UNDER THE PROGRAM.**

21 (a) RENAMING.—The text of section 509 of title 32,
22 United States Code, is amended by striking “National
23 Guard Challenge Program” each place it appears and in-
24 serting “National Guard Youth Challenge Program”.

1 (b) INCREASE IN MAXIMUM FEDERAL SHARE OF
2 COST OF STATE PROGRAMS.—Subsection (d) of such sec-
3 tion is amended by striking paragraphs (1), (2), (3), and
4 (4), and inserting the following new paragraphs:

5 “(1) for fiscal year 2004, 60 percent of the
6 costs of operating the State program during that
7 year;

8 “(2) for fiscal year 2005, 65 percent of the
9 costs of operating the State program during that
10 year;

11 “(3) for fiscal year 2006, 70 percent of the
12 costs of operating the State program during that
13 year; and

14 “(4) for fiscal year 2007 and each subsequent
15 fiscal year, 75 percent of the costs of operating the
16 State program during such year.”.

17 (c) CONFORMING AND CLERICAL AMENDMENTS.—

18 (1) The heading of such section is amended to read as
19 follows:

20 **“§ 509. National Guard Youth Challenge Program of**
21 **opportunities for civilian youth”.**

22 (2) The table of sections at the beginning of chapter
23 5 of such title is amended by striking the item relating
24 to section 509 and inserting the following new item:

“509. National Guard Youth Challenge Program of opportunities for civilian
youth.”.

1 **SEC. 574. APPEARANCE OF VETERANS SERVICE ORGANIZA-**
2 **TIONS AT PRESEPARATION COUNSELING**
3 **PROVIDED BY THE DEPARTMENT OF DE-**
4 **FENSE.**

5 (a) APPEARANCE TO COUNSELING FOR DISCHARGE
6 OR RELEASE FROM ACTIVE DUTY.—Section 1142 of title
7 10, United States Code, is amended by adding at the end
8 the following new subsection:

9 “(d) APPEARANCE BY VETERANS SERVICE ORGANI-
10 ZATIONS.—(1) The Secretary concerned may permit a rep-
11 resentative of a veterans service organization to appear at
12 and participate in any preseparation counseling provided
13 to a member of the armed forces under this section.

14 “(2) For purposes of this subsection, a veterans serv-
15 ice organization is any organization recognized by the Sec-
16 retary of Veterans Affairs for the representation of vet-
17 erans under section 5902 of title 38.”.

18 (b) MEETING WITH RESERVES RELEASED FROM AC-
19 TIVE DUTY FOR FURTHER SERVICE IN THE RESERVES.—

20 (1) A unit of a reserve component on active duty in the
21 Armed Forces may, upon release from active duty in the
22 Armed Forces for further service in the reserve compo-
23 nents, meet with a veterans service organization for infor-
24 mation and assistance relating to such release if the com-
25 mander of the unit authorizes the meeting.

1 (2) The time of a meeting for a unit under paragraph
2 (1) may be scheduled by the commander of the unit for
3 such time after the release of the unit as described in that
4 paragraph as the commander of the unit determines ap-
5 propriate to maximize the benefit of the meeting to the
6 members of the unit.

7 (3) For purposes of this subsection, a veterans service
8 organization is any organization recognized by the Sec-
9 retary of Veterans Affairs for the representation of vet-
10 erans under section 5902 of title 38, United States Code.

11 **SEC. 575. SENSE OF THE SENATE REGARDING RETURN OF**
12 **MEMBERS TO ACTIVE DUTY SERVICE UPON**
13 **REHABILITATION FROM SERVICE-RELATED**
14 **INJURIES.**

15 (a) FINDINGS.—Congress makes the following find-
16 ings:

17 (1) The generation of young men and women
18 currently serving on active duty in the Armed
19 Forces, which history will record as being among the
20 greatest, has shown in remarkable numbers an indi-
21 vidual resolve to recover from injuries incurred in
22 such service and to return to active service in the
23 Armed Forces.

24 (2) Since September 11, 2001, numerous brave
25 soldiers, sailors, airmen, and Marines have incurred

1 serious combat injuries, including (as of June 2004)
2 approximately 100 members of the Armed Forces
3 who have been fitted with artificial limbs as a result
4 of devastating injuries sustained in combat overseas.

5 (3) In cases involving combat-related injuries
6 and other service-related injuries it is possible, as a
7 result of advances in technology and extensive reha-
8 bilitative services, to restore to members of the
9 Armed Forces sustaining such injuries the capability
10 to resume the performance of active military service,
11 including, in a few cases, the capability to partici-
12 pate directly in the performance of combat missions.

13 (b) SENSE OF THE SENATE.—It is the sense of the
14 Senate that—

15 (1) members of the Armed Forces who on their
16 own initiative are highly motivated to return to ac-
17 tive duty service following rehabilitation from inju-
18 ries incurred in their service in the Armed Forces,
19 after appropriate medical review should be given the
20 opportunity to present their cases for continuing to
21 serve on active duty in varied military capacities;

22 (2) other than appropriate medical review, there
23 should be no barrier in policy or law to such a mem-
24 ber having the option to return to military service on
25 active duty; and

1 (3) the Secretary of Defense should develop
 2 specific protocols that expand options for such mem-
 3 bers to return to active duty service and to be re-
 4 trained to perform military missions for which they
 5 are fully capable.

6 **TITLE VI—COMPENSATION AND**
 7 **OTHER PERSONNEL BENEFITS**
 8 **Subtitle A—Pay and Allowances**

9 **SEC. 601. GEOGRAPHIC BASIS FOR HOUSING ALLOWANCE**
 10 **DURING SHORT-ASSIGNMENT PERMANENT**
 11 **CHANGES OF STATION FOR EDUCATION OR**
 12 **TRAINING.**

13 (a) **AUTHORITY.**—Paragraph (3) of subsection (d) of
 14 section 403 of title 37, United States Code, is amended
 15 by adding at the end the following new subparagraph:

16 “(C) In the case of a member who is reassigned
 17 for a permanent change of station or permanent
 18 change of assignment from a duty station within the
 19 continental United States to another duty station
 20 within the continental United States for a period of
 21 not more than one year for the purpose of partici-
 22 pating in professional military education or training
 23 classes, the amount of the basic allowance for hous-
 24 ing for the member may be based on whichever of
 25 the following areas the Secretary concerned deter-

1 mines to provide the more equitable basis for the al-
 2 lowance:

3 “(i) The area of the duty station to which
 4 the member is reassigned.

5 “(ii) The area of the member’s last duty
 6 station, but only if, and for the period that, the
 7 member’s dependents reside in that area on and
 8 after the date of the member’s departure for
 9 the duty station to which the member is reas-
 10 signed.”.

11 (b) CONFORMING AMENDMENT.—The heading of
 12 such subsection is amended by striking “ARE UNABLE
 13 To” and inserting “Do NOT”.

14 **SEC. 602. IMMEDIATE LUMP-SUM REIMBURSEMENT FOR**
 15 **UNUSUAL NONRECURRING EXPENSES IN-**
 16 **CURRED FOR DUTY OUTSIDE THE CONTI-**
 17 **NENTAL UNITED STATES.**

18 Section 405 of title 37, United States Code, is
 19 amended by adding at the end the following new sub-
 20 section:

21 “(d) NONRECURRING EXPENSES.—(1) The Secretary
 22 concerned may pay a member of the uniformed services
 23 on duty as described in subsection (a) a reimbursement
 24 for a nonrecurring expense incurred by the member inci-
 25 dent to such duty that—

1 “(A) is directly related to the conditions or lo-
2 cation of the duty;

3 “(B) is of a nature or a magnitude not nor-
4 mally incurred by members of the uniformed services
5 on duty inside the continental United States; and

6 “(C) is not included in the per diem determined
7 under subsection (b) as payable to the member
8 under subsection (a).

9 “(2) Any reimbursement payable to a member under
10 paragraph (1) is in addition to a per diem payable to that
11 member under subsection (a).”.

12 **SEC. 603. PERMANENT INCREASE IN AUTHORIZED AMOUNT**
13 **OF FAMILY SEPARATION ALLOWANCE.**

14 (a) **PERMANENT AMOUNT.**—Subsection (a)(1) of sec-
15 tion 427 of title 37, United States Code, is amended by
16 striking “\$100” and inserting “\$250”.

17 (b) **REPEAL OF TEMPORARY AUTHORITY.**—Sub-
18 section (e) of such section is repealed.

19 (c) **EFFECTIVE DATE.**—This section and the amend-
20 ments made by this section shall take effect on the earlier
21 of—

22 (1) the first day of the first month that begins
23 after the date of the enactment of this Act; or

24 (2) January 1, 2005.

1 **Subtitle B—Bonuses and Special**
2 **and Incentive Pays**

3 **SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND**
4 **SPECIAL PAY AUTHORITIES FOR RESERVE**
5 **FORCES.**

6 (a) **SELECTED RESERVE REENLISTMENT BONUS.**—
7 Section 308b(g) of title 37, United States Code, is amend-
8 ed by striking “December 31, 2004” and inserting “De-
9 cember 31, 2005”.

10 (b) **SELECTED RESERVE ENLISTMENT BONUS.**—Sec-
11 tion 308c(e) of such title is amended by striking “Decem-
12 ber 31, 2004” and inserting “December 31, 2005”.

13 (c) **SPECIAL PAY FOR ENLISTED MEMBERS AS-**
14 **SIGNED TO CERTAIN HIGH PRIORITY UNITS.**—Section
15 308d(c) of such title is amended by striking “December
16 31, 2004” and inserting “December 31, 2005”.

17 (d) **SELECTED RESERVE AFFILIATION BONUS.**—Sec-
18 tion 308e(e) of such title is amended by striking “Decem-
19 ber 31, 2004” and inserting “December 31, 2005”.

20 (e) **READY RESERVE ENLISTMENT AND REENLIST-**
21 **MENT BONUS.**—Section 308h(g) of such title is amended
22 by striking “December 31, 2004” and inserting “Decem-
23 ber 31, 2005”.

1 (f) PRIOR SERVICE ENLISTMENT BONUS.—Section
2 308i(f) of such title is amended by striking “December
3 31, 2004” and inserting “December 31, 2005”.

4 **SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND**
5 **SPECIAL PAY AUTHORITIES FOR CERTAIN**
6 **HEALTH CARE PROFESSIONALS.**

7 (a) NURSE OFFICER CANDIDATE ACCESSION PRO-
8 GRAM.—Section 2130a(a)(1) of title 10, United States
9 Code, is amended by striking “December 31, 2004” and
10 inserting “December 31, 2005”.

11 (b) REPAYMENT OF EDUCATION LOANS FOR CER-
12 TAIN HEALTH PROFESSIONALS WHO SERVE IN THE SE-
13 LECTED RESERVE.—Section 16302(d) of such title is
14 amended by striking “January 1, 2005” and inserting
15 “January 1, 2006”.

16 (c) ACCESSION BONUS FOR REGISTERED NURSES.—
17 Section 302d(a)(1) of title 37, United States Code, is
18 amended by striking “December 31, 2004” and inserting
19 “December 31, 2005”.

20 (d) INCENTIVE SPECIAL PAY FOR NURSE ANES-
21 THETISTS.—Section 302e(a)(1) of such title is amended
22 by striking “December 31, 2004” and inserting “Decem-
23 ber 31, 2005”.

24 (e) SPECIAL PAY FOR SELECTED RESERVE HEALTH
25 PROFESSIONALS IN CRITICALLY SHORT WARTIME SPE-

1 CIALTIES.—Section 302g(f) of such title is amended by
2 striking “December 31, 2004” and inserting “December
3 31, 2005”.

4 (f) ACCESSION BONUS FOR DENTAL OFFICERS.—
5 Section 302h(a)(1) of such title is amended by striking
6 “December 31, 2004” and inserting “December 31,
7 2005”.

8 **SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND**
9 **BONUS AUTHORITIES FOR NUCLEAR OFFI-**
10 **CERS.**

11 (a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFI-
12 CERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section
13 312(e) of title 37, United States Code, is amended by
14 striking “December 31, 2004” and inserting “December
15 31, 2005”.

16 (b) NUCLEAR CAREER ACCESSION BONUS.—Section
17 312b(c) of such title is amended by striking “December
18 31, 2004” and inserting “December 31, 2005”.

19 (c) NUCLEAR CAREER ANNUAL INCENTIVE
20 BONUS.—Section 312c(d) of such title is amended by
21 striking “December 31, 2004” and inserting “December
22 31, 2005”.

1 **SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND**
2 **SPECIAL PAY AUTHORITIES.**

3 (a) AVIATION OFFICER RETENTION BONUS.—Sec-
4 tion 301b(a) of title 37, United States Code, is amended
5 by striking “December 31, 2004” and inserting “Decem-
6 ber 31, 2005”.

7 (b) ASSIGNMENT INCENTIVE PAY.—Section 307a(f)
8 of such title is amended by striking “December 31, 2005”
9 and inserting “December 31, 2006”.

10 (c) REENLISTMENT BONUS FOR ACTIVE MEM-
11 BERS.—Section 308(g) of such title is amended by strik-
12 ing “December 31, 2004” and inserting “December 31,
13 2005”.

14 (d) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—
15 Section 309(e) of such title is amended by striking “De-
16 cember 31, 2004” and inserting “December 31, 2005”.

17 (e) RETENTION BONUS FOR MEMBERS WITH CRIT-
18 ICAL MILITARY SKILLS.—Section 323(i) of such title is
19 amended by striking “December 31, 2004” and inserting
20 “December 31, 2005”.

21 (f) ACCESSION BONUS FOR NEW OFFICERS IN CRIT-
22 ICAL SKILLS.—Section 324(g) of such title is amended by
23 striking “December 31, 2004” and inserting “December
24 31, 2005”.

1 **SEC. 615. REDUCED SERVICE OBLIGATION FOR NURSES RE-**
 2 **CEIVING NURSE ACCESSION BONUS.**

3 (a) PERIOD OF OBLIGATED SERVICE.—Section
 4 302d(a)(1) of title 37, United States Code, is amended
 5 by striking “four years” and inserting “three years”.

6 (b) EFFECTIVE DATE AND APPLICABILITY.—The
 7 amendment made by subsection (a) shall take effect on
 8 October 1, 2004, and shall apply with respect to agree-
 9 ments entered into under section 302d of title 37, United
 10 States Code, on or after such date.

11 **SEC. 616. ASSIGNMENT INCENTIVE PAY.**

12 (a) DISCONTINUATION UPON COMMENCEMENT OF
 13 TERMINAL LEAVE.—(1) Subsection (e) of section 307a of
 14 title 37, United States Code, is amended by striking “ab-
 15 sence of the member for authorized leave.” and inserting
 16 the following:

17 “(2) absence of the member for authorized
 18 leave, other than leave authorized for a period end-
 19 ing upon the discharge of the member or the release
 20 of the member from active duty.”.

21 (2) Such subsection is further amended by striking
 22 “by reason of” and all that follows through “pursuant to
 23 orders or” and inserting “by reason of—

24 “(1) temporary duty performed by the member
 25 pursuant to orders; or”.

1 (b) DISCRETIONARY WRITTEN AGREEMENTS.—Sub-
 2 section (b) of such section is amended to read as follows:

3 “(b) WRITTEN AGREEMENT.—The Secretary con-
 4 cerned may require a member to enter into a written
 5 agreement with the Secretary in order to qualify for the
 6 incentive pay under this section. A written agreement
 7 under this subsection shall set forth the period for which
 8 the incentive pay is to be provided and the monthly rate
 9 at which the incentive pay is to be paid.”.

10 (c) EFFECTIVE DATE AND APPLICABILITY.—(1) The
 11 amendments made by subsection (a) shall take effect on
 12 October 1, 2004.

13 (2) Paragraph (2) of section 307a(e) of title 37,
 14 United States Code, shall apply with respect to authorized
 15 leave for days after September 30, 2004.

16 **SEC. 617. PERMANENT INCREASE IN AUTHORIZED AMOUNT**
 17 **OF HOSTILE FIRE AND IMMINENT DANGER**
 18 **SPECIAL PAY.**

19 (a) PERMANENT AMOUNT.—Subsection (a) of section
 20 310 of title 37, United States Code, is amended by strik-
 21 ing “\$150” in the matter preceding paragraph (1) and
 22 inserting “\$225”.

23 (b) REPEAL OF TEMPORARY AUTHORITY.—Sub-
 24 section (e) of such section is repealed.

1 (c) EFFECTIVE DATE.—This section and the amend-
2 ments made by this section shall take effect on the earlier
3 of—

4 (1) the first day of the first month that begins
5 after the date of the enactment of this Act; or

6 (2) January 1, 2005.

7 **SEC. 618. ELIGIBILITY OF ENLISTED MEMBERS TO QUALIFY**
8 **FOR CRITICAL SKILLS RETENTION BONUS**
9 **WHILE SERVING ON INDEFINITE REENLIST-**
10 **MENT.**

11 Paragraph (2) of section 323(a) of title 37, United
12 States Code, is amended to read as follows:

13 “(2) in the case of an enlisted member—

14 “(A) the member, if serving under an en-
15 listment for a definite period—

16 “(i) reenlists for a period of at least
17 one year; or

18 “(ii) voluntarily extends the member’s
19 enlistment for a period of at least one
20 year; or

21 “(B) the member, if serving under an en-
22 listment for an indefinite period, enters into a
23 written agreement with the Secretary concerned
24 to remain on active duty for at least one year
25 under such enlistment.”.

1 **SEC. 619. CLARIFICATION OF EDUCATIONAL PURSUITS**
 2 **QUALIFYING FOR SELECTED RESERVE EDU-**
 3 **CATION LOAN REPAYMENT PROGRAM FOR**
 4 **HEALTH PROFESSIONS OFFICERS.**

5 Section 16302(a)(5) of title 10, United States Code,
 6 is amended by striking “regarding” and inserting “for a
 7 basic professional qualifying degree (as determined under
 8 regulations prescribed by the Secretary), or graduate edu-
 9 cation, in”.

10 **SEC. 620. BONUS FOR CERTAIN INITIAL SERVICE OF COM-**
 11 **MISSIONED OFFICERS IN THE SELECTED RE-**
 12 **SERVE.**

13 (a) **AUTHORITY.**—Chapter 5 of title 37, United
 14 States Code, is amended by inserting after section 308i
 15 the following new section:

16 **“§ 308j. Special pay: bonus for certain initial service**
 17 **of commissioned officers in the Selected**
 18 **Reserve**

19 “(a) **AFFILIATION BONUS.**—(1) The Secretary con-
 20 cerned may pay an affiliation bonus under this section to
 21 an eligible commissioned officer in any of the armed forces
 22 who enters into an agreement with the Secretary to serve,
 23 for the period specified in the agreement, in the Selected
 24 Reserve of the Ready Reserve of an armed force under
 25 the Secretary’s jurisdiction—

1 “(A) in a critical officer skill designated under
2 paragraph (3); or

3 “(B) to meet a manpower shortage in—

4 “(i) a unit of that Selected Reserve; or

5 “(ii) a particular pay grade in that armed
6 force.

7 “(2) A commissioned officer is eligible for an affili-
8 ation bonus under this section if the officer—

9 “(A) either—

10 “(i) is serving on active duty for a period
11 of more than 30 days; or

12 “(ii) is a member of a reserve component
13 not on active duty and, if the member formerly
14 served on active duty, was released from active
15 duty under honorable conditions;

16 “(B) has not previously served in the Selected
17 Reserve of the Ready Reserve; and

18 “(C) is not entitled to receive retired or retainer
19 pay.

20 “(3)(A) The Secretary concerned shall designate for
21 an armed force under the Secretary’s jurisdiction the crit-
22 ical officer skills to which the bonus authority under this
23 subsection is to be applied.

24 “(B) A skill may be designated as a critical officer
25 skill for an armed force under subparagraph (A) if, to

1 meet requirements of that armed force, it is critical for
2 that armed force to have a sufficient number of officers
3 who are qualified in that skill.

4 “(4) An affiliation bonus payable pursuant to an
5 agreement under this section to an eligible officer accrues
6 on the date on which the person is assigned to a unit or
7 position in the Selected Reserve pursuant to such agree-
8 ment.

9 “(b) ACCESSION BONUS.—(1) The Secretary con-
10 cerned may pay an accession bonus under this section to
11 an eligible person who enters into an agreement with the
12 Secretary—

13 “(A) to accept an appointment as a commis-
14 sioned officer in the armed forces; and

15 “(B) to serve in the Selected Reserve of the
16 Ready Reserve in a skill designated under paragraph
17 (2) for a period specified in the agreement.

18 “(2)(A) The Secretary concerned shall designate for
19 an armed force under the Secretary’s jurisdiction the offi-
20 cer skills to which the authority under this subsection is
21 to be applied.

22 “(B) A skill may be designated for an armed force
23 under subparagraph (A) if, to mitigate a current or pro-
24 jected significant shortage of personnel in that armed
25 force who are qualified in that skill, it is critical to in-

1 crease the number of persons accessed into that armed
2 force who are qualified in that skill or are to be trained
3 in that skill.

4 “(3) An accession bonus payable to a person pursu-
5 ant to an agreement under this section accrues on the date
6 on which that agreement is accepted by the Secretary con-
7 cerned.

8 “(c) PERIOD OF OBLIGATED SERVICE.—An agree-
9 ment entered into with the Secretary concerned under this
10 section shall require the person entering into that agree-
11 ment to serve in the Selected Reserve for a specified pe-
12 riod. The period specified in the agreement shall be any
13 period not less than three years that the Secretary con-
14 cerned determines appropriate to meet the needs of the
15 reserve component in which the service is to be performed.

16 “(d) AMOUNT.—The amount of a bonus under this
17 section may be any amount not in excess of \$6,000 that
18 the Secretary concerned determines appropriate.

19 “(e) PAYMENT.—Upon acceptance of a written agree-
20 ment by the Secretary concerned under this section, the
21 total amount of the bonus payable under the agreement
22 becomes fixed. The agreement shall specify whether the
23 bonus is to be paid in one lump sum or in installments.

24 “(f) RELATION TO OTHER ACCESSION BONUS AU-
25 THORITY.—No person may receive an affiliation bonus or

1 accession bonus under this section and financial assistance
2 under chapter 1608, 1609, or 1611 of title 10, or under
3 section 302g of this title, for the same period of service.

4 “(g) REPAYMENT FOR FAILURE TO COMMENCE OR
5 COMPLETE OBLIGATED SERVICE.—(1) A person who,
6 after receiving all or part of the bonus under an agreement
7 entered into by that person under this section, does not
8 accept a commission as an officer or does not commence
9 to participate or does not satisfactorily participate in the
10 Selected Reserve for the total period of service specified
11 in the agreement shall repay to the United States such
12 compensation or benefit, except under conditions pre-
13 scribed by the Secretary concerned.

14 “(2) The Secretary concerned shall include in each
15 agreement entered into by the Secretary under this section
16 the requirements that apply for any repayment under this
17 subsection, including the method for computing the
18 amount of the repayment and any exceptions.

19 “(3) An obligation to repay the United States im-
20 posed under paragraph (1) is for all purposes a debt owed
21 to the United States. A discharge in bankruptcy under
22 title 11 that is entered less than five years after the termi-
23 nation of an agreement entered into under this section
24 does not discharge a person from a debt arising under an

1 agreement entered into under this subsection or a debt
2 arising under paragraph (1).”.

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

“308j. Special pay: bonus for certain initial service of commissioned officers in
the Selected Reserve.”.

6 **SEC. 621. RELATIONSHIP BETWEEN ELIGIBILITY TO RE-**
7 **CEIVE SUPPLEMENTAL SUBSISTENCE AL-**
8 **LOWANCE AND ELIGIBILITY TO RECEIVE IM-**
9 **MINENT DANGER PAY, FAMILY SEPARATION**
10 **ALLOWANCE, AND CERTAIN FEDERAL ASSIST-**
11 **ANCE.**

12 (a) ENTITLEMENT NOT AFFECTED BY RECEIPT OF
13 IMMINENT DANGER PAY AND FAMILY SEPARATION AL-
14 LOWANCE.—Subsection (b)(2) of section 402a of title 37,
15 United States Code, is amended by striking subparagraph
16 (A) and inserting the following:

17 “(A) shall not take into consideration—

18 “(i) the amount of the supplemental sub-
19 sistence allowance that is payable under this
20 section;

21 “(ii) the amount of special pay (if any)
22 that is payable under section 310 of this sec-
23 tion, relating to duty subject to hostile fire or
24 imminent danger; or

1 “(iii) the amount of family separation al-
2 lowance (if any) that is payable under section
3 427 of this title; but”.

4 (b) ELIGIBILITY FOR OTHER FEDERAL ASSIST-
5 ANCE.—Section 402a of such title is amended—

6 (1) by redesignating subsections (g) and (h) as
7 subsections (h) and (i), respectively; and

8 (2) by inserting after subsection (f) the fol-
9 lowing new subsection (g):

10 “(g) ELIGIBILITY FOR OTHER FEDERAL ASSIST-
11 ANCE.—(1)(A) A child or spouse of a member of the
12 armed forces receiving the supplemental subsistence allow-
13 ance under this section who, except for the receipt of such
14 allowance, would otherwise be eligible to receive a benefit
15 described in subparagraph (B) shall be considered to be
16 eligible for that benefit.

17 “(B) The benefits referred to in subparagraph (A)
18 are as follows:

19 “(i) Assistance provided under the Richard B.
20 Russell National School Lunch Act (42 U.S.C. 1751
21 et seq.).

22 “(ii) Assistance provided under the Child Nutri-
23 tion Act of 1966 (42 U.S.C. 1771 et seq.).

24 “(iii) A service under the Head Start Act (42
25 U.S.C. 9831 et seq.).

1 “(iv) Assistance under the Child Care and De-
2 velopment Block Grant Act of 1990 (42 U.S.C.
3 9858 et seq.).

4 “(2) A household that includes a member of the
5 armed forces receiving the supplemental subsistence allow-
6 ance under this section and, except for the receipt of such
7 allowance, would otherwise be eligible to receive a benefit
8 under the Low-Income Home Energy Assistance Act of
9 1981 (42 U.S.C. 8621 et seq.) shall be considered to be
10 eligible for that benefit.”.

11 (c) REQUIREMENT FOR REPORT.—(1) Not later than
12 180 days after the date of the enactment of this Act, the
13 Secretary of Defense shall submit to the committees of
14 Congress named in paragraph (2) a report on the accessi-
15 bility of social services to members of the Armed Forces
16 and their families. The report shall include the following
17 matters:

18 (A) The social services for which members of
19 the Armed Forces and their families are eligible
20 under social services programs generally available to
21 citizens and other nationals of the United States.

22 (B) The extent to which members of the Armed
23 Forces and their families utilize the social services
24 for which they are eligible under the programs iden-
25 tified under subparagraph (A).

1 (C) The efforts made by each of the military
2 departments—

3 (i) to ensure that members of the Armed
4 Forces and their families are aware of the so-
5 cial services for which they are eligible under
6 the programs identified under subparagraph
7 (A); and

8 (ii) to assist members and their families in
9 applying for and obtaining such social services.

10 (2) The committees of Congress referred to in para-
11 graph (1) are as follows:

12 (A) The Committee on Armed Services and the
13 Committee on Health, Education, Labor, and Pen-
14 sions of the Senate.

15 (B) The Committee on Armed Services of the
16 House of Representatives.

17 (d) EFFECTIVE DATE.—(1) Except as provided in
18 paragraph (2), this section and the amendments made by
19 this section shall take effect on October 1, 2004.

20 (2) Subsection (c) shall take effect on the date of the
21 enactment of this Act.

1 **Subtitle C—Travel and**
2 **Transportation Allowances**

3 **SEC. 631. TRAVEL AND TRANSPORTATION ALLOWANCES**
4 **FOR FAMILY MEMBERS TO ATTEND BURIAL**
5 **CEREMONIES OF MEMBERS WHO DIE ON**
6 **DUTY.**

7 (a) **AUTHORIZED TRAVEL DESTINATION.**—Sub-
8 section (a)(1) of section 411f of title 37, United States
9 Code, is amended by inserting before the period at the
10 end the following: “at the location determined under sub-
11 section (a)(8) or (d)(2) of section 1482 of title 10”.

12 (b) **LIMITATION ON AMOUNT.**—Subsection (b) of
13 such section is amended to read as follows:

14 “(b) **LIMITATION ON AMOUNT.**—Allowances for trav-
15 el under subsection (a) may not exceed the rates for two
16 days and the time necessary for such travel.”.

17 (c) **UNCONDITIONAL ELIGIBILITY OF DECEASED’S**
18 **PARENTS.**—Subsection (c)(1)(C) of such section is
19 amended by striking “If no person described in subpara-
20 graph (A) or (B) is provided travel and transportation al-
21 lowances under subsection (a)(1), the” and inserting
22 “The”.

1 **SEC. 632. LODGING COSTS INCURRED IN CONNECTION**
2 **WITH DEPENDENT STUDENT TRAVEL.**

3 (a) **AUTHORITY.**—Section 430(b)(1) of title 37,
4 United States Code, is amended—

5 (1) by inserting “(A)” after “(b) **ALLOWANCE**
6 **AUTHORIZED.—(1)**”; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(B) The allowance authorized under subparagraph
10 (A) for an eligible dependent’s travel may include reim-
11 bursement for costs that are incurred by or for the de-
12 pendent for lodging of the dependent that is necessitated
13 by an interruption in the travel caused by extraordinary
14 circumstances prescribed in the regulations under sub-
15 section (a). The amount of a reimbursement payable
16 under this subparagraph shall be a rate that is applicable
17 to the circumstances under regulations prescribed by the
18 Secretaries concerned.”.

19 (b) **EFFECTIVE DATE AND APPLICABILITY.**—The
20 amendments made by subsection (a) shall take effect on
21 October 1, 2004, and shall apply with respect to lodging
22 that commences on or after such date.

1 **Subtitle D—Retired Pay and**
2 **Survivor Benefits**

3 **SEC. 641. SPECIAL RULE FOR COMPUTING THE HIGH-36**
4 **MONTH AVERAGE FOR DISABLED MEMBERS**
5 **OF RESERVE COMPONENTS.**

6 (a) COMPUTATION OF HIGH 36-MONTH AVERAGE.—
7 Subsection (c) of section 1407 of title 10, United States
8 Code, is amended by adding at the end the following new
9 paragraph:

10 “(3) SPECIAL RULE FOR RESERVE COMPONENT
11 MEMBERS.—In the application of paragraphs (1)
12 and (2) to a member of a reserve component of a
13 uniformed service who is entitled to retired pay
14 under section 1201 or 1202 of this title, each month
15 during which the member performed duty for which
16 basic pay is paid under section 203 of title 37 or
17 compensation is paid under section 206 of such title
18 shall be treated as if it were one month of active
19 service.”.

20 (b) EFFECTIVE DATES AND APPLICABILITY.—(1)
21 Paragraph (3) of section 1407(c) of title 10, United States
22 Code (as added by subsection (a)), shall take effect on Oc-
23 tober 1, 2004, and shall apply with respect to months be-
24 ginning on or after such date, except as provided in para-
25 graph (2).

1 (2) For the computation of survivor annuities under
2 subparagraph (A)(i) or (B) of section 1451(c)(1) of title
3 10, United States Code (as amended by section 642(b)
4 of Public Law 107–107; 115 Stat. 1152)), paragraph (3)
5 of section 1407(c) of title 10, United States Code (as
6 added by subsection (a)), shall take effect as of September
7 10, 2001, and shall apply with respect to deaths of mem-
8 bers of the uniformed services occurring on or after that
9 date.

10 **SEC. 642. DEATH BENEFITS ENHANCEMENT.**

11 (a) **FINAL ACTIONS ON FISCAL YEAR 2004 DEATH**
12 **BENEFITS STUDY.**—(1) Congress finds that the study of
13 the Federal death benefits for survivors of deceased mem-
14 bers of the Armed Forces under section 647 of the Na-
15 tional Defense Authorization Act for Fiscal Year 2004
16 (Public Law 108–136; 117 Stat. 1520) has given Con-
17 gress sufficient insight to initiate action to provide for the
18 enhancement of the current set of death benefits that are
19 provided under law for the survivors.

20 (2) The Secretary of Defense shall expedite the com-
21 pletion and submission of the final report, which was due
22 on March 1, 2004, under section 647 of the National De-
23 fense Authorization Act for Fiscal Year 2004.

24 (3) It is the sense of Congress that the President
25 should promptly submit to Congress any recommendation

1 for legislation, together with a request for appropriations,
2 that the President determines necessary to implement the
3 death benefits enhancements that are recommended in the
4 final report under section 647 of the National Defense Au-
5 thorization Act for Fiscal Year 2004.

6 (b) INCREASES OF DEATH GRATUITY CONSISTENT
7 WITH INCREASES OF RATES OF BASIC PAY.—Section
8 1478 of title 10, United States Code, is amended—

9 (1) in subsection (a), by inserting “(as adjusted
10 under subsection (c))” before the period at the end
11 of the first sentence; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(c) Effective on the date on which rates of basic pay
15 under section 204 of this title are increased under section
16 1009 of title 37 or any other provision of law, the amount
17 of the death gratuity provided under subsection (a) shall
18 be increased by the same overall average percentage of the
19 increase in the rates of basic pay taking effect on that
20 date.”.

21 (c) FISCAL YEAR 2005 ACTIONS.—At the same time
22 that the President submits to Congress the budget for fis-
23 cal year 2006 under section 1105(a) of title 31, United
24 States Code, the President shall submit to the appropriate
25 committees of Congress referred to in subsection (g) a

1 draft or drafts of legislation to provide enhanced death
2 benefits for survivors of deceased members of the uni-
3 formed services. The draft legislation shall include provi-
4 sions for the following:

5 (1) Revision of the Servicemembers' Group Life
6 Insurance program to provide for—

7 (A) an increase of the maximum benefit
8 provided under Servicemembers' Group Life In-
9 surance to \$350,000, together with an increase,
10 each fiscal year, by the same overall average
11 percentage increase that takes effect during
12 such fiscal year in the rates of basic pay under
13 section 204 of title 37, United States Code; and

14 (B) a minimum benefit of \$100,000 at no
15 cost to the insured members of the uniformed
16 services who elect the maximum coverage, to-
17 gether with an increase in such minimum ben-
18 efit each fiscal year by the same percentage in-
19 crease as is described in subparagraph (A).

20 (2) An additional set of death benefits for each
21 member of the uniformed services who dies in the
22 line of duty while on active duty that includes, at a
23 minimum, an additional death gratuity in the
24 amount that—

1 (A) in the case of a member not described
2 in subparagraph (B), is equal to the sum of—

3 (i) the total amount of the basic pay
4 to which the deceased member would have
5 been entitled under section 204 of title 37,
6 United States Code, if the member had not
7 died and had continued to serve on active
8 duty for an additional year; and

9 (ii) the total amount of all allowances
10 and special pays that the member would
11 have been entitled to receive under title 37,
12 United States Code, over the one-year pe-
13 riod beginning on the member's date of
14 death if the member had not died and had
15 continued to serve on active duty for an
16 additional year with the unit to which the
17 member was assigned or detailed on such
18 date; and

19 (B) in the case of a member who dies as
20 a result of an injury caused by or incurred
21 while exposed to hostile action (including any
22 hostile fire or explosion and any hostile action
23 from a terrorist source), is equal to twice the
24 amount calculated under subparagraph (A).

1 (3) Any other new death benefits or enhance-
2 ment of existing death benefits that the President
3 recommends.

4 (4) Retroactive applicability of the benefits re-
5 ferred to in paragraph (2) and, as appropriate, the
6 benefits recommended under paragraph (3) so as to
7 provide the benefits—

8 (A) for members of the uniformed services
9 who die in line of duty on or after October 7,
10 2001, of a cause incurred or aggravated while
11 deployed in support of Operation Enduring
12 Freedom; and

13 (B) for members of the uniformed services
14 who die in line of duty on or after March 19,
15 2003, of a cause incurred or aggravated while
16 deployed in support of Operation Iraqi Free-
17 dom.

18 (d) CONSULTATION.—The President shall consult
19 with the Secretary of Defense and the Secretary of Vet-
20 erans Affairs in developing the draft legislation required
21 under subsection (c).

22 (e) FISCAL YEAR 2006 BUDGET SUBMISSION.—The
23 budget for fiscal year 2006 that is submitted to Congress
24 under section 1105(a) of title 31, United States Code,
25 shall include draft legislation (other than draft appropria-

1 tions) that includes provisions that, on the basis of the
2 assumption that the draft legislation submitted under sub-
3 section (c) would be enacted and would take effect in fiscal
4 year 2006—

5 (1) would offset fully the increased outlays that
6 would result from enactment of the provisions of the
7 draft legislation submitted under subsection (c), for
8 fiscal year 2006 and each of the ensuing nine fiscal
9 years;

10 (2) expressly state that they are proposed for
11 the purpose of the offset described in paragraph (1);
12 and

13 (3) are included in full in the estimates that are
14 made by the Director of the Congressional Budget
15 Office and the Director of the Office of Management
16 and Budget under section 252(d) of the Balanced
17 Budget and Emergency Deficit Control Act of 1985
18 (2 U.S.C. 902(d)) with respect to the fiscal years re-
19 ferred to in paragraph (1).

20 (f) EARLY SUBMISSION OF PROPOSAL FOR ADDI-
21 TIONAL DEATH BENEFITS.—Congress urges the Presi-
22 dent to submit the draft of legislation for the additional
23 set of death benefits under paragraph (2) of subsection
24 (c) before the time for submission required under that

1 subsection and as soon as is practicable after the date of
2 the enactment of this Act.

3 (g) APPROPRIATE COMMITTEES OF CONGRESS.—For
4 the purposes of subsection (c), the appropriate committees
5 of Congress are as follows:

6 (1) The Committees on Armed Services of the
7 Senate and the House of Representatives, with re-
8 spect to draft legislation that is within the jurisdic-
9 tion of such committees.

10 (2) The Committees on Veterans Affairs of the
11 Senate and the House of Representatives, with re-
12 spect to draft legislation within the jurisdiction of
13 such committees.

14 **SEC. 643. REPEAL OF PHASE-IN OF CONCURRENT RECEIPT**
15 **OF RETIRED PAY AND VETERANS' DISABILITY**
16 **COMPENSATION FOR VETERANS WITH SERV-**
17 **ICE-CONNECTED DISABILITIES RATED AS 100**
18 **PERCENT.**

19 Section 1414 of title 10, United States Code, is
20 amended—

21 (1) in subsection (a)(1)—

22 (A) by inserting after the first sentence the
23 following new sentence: “During the period be-
24 ginning on January 1, 2004, and ending on De-
25 cember 31, 2004, payment of retired pay to

1 such a qualified retiree described in subsection
2 (c)(1)(B) is subject to subsection (c).”; and

3 (B) in the last sentence, by inserting
4 “(other than a qualified retiree covered by the
5 preceding sentence)” after “such a qualified re-
6 tiree”; and

7 (2) in subsection (c)—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by inserting
10 “(other than a retiree described by sub-
11 paragraph (B))” after “the retiree”;

12 (ii) by redesignating subparagraphs
13 (B) through (F) as subparagraphs (C)
14 through (G), respectively; and

15 (iii) by inserting after subparagraph
16 (A) the following new subparagraph (B):

17 “(B) For a month for which the retiree re-
18 ceives veterans’ disability compensation for a
19 disability rated as 100 percent, \$750.”;

20 (B) by redesignating paragraph (11) as
21 paragraph (12); and

22 (C) by inserting after paragraph (10) the
23 following new paragraph (11):

24 “(11) INAPPLICABILITY TO VETERANS WITH
25 DISABILITIES RATED AS 100 PERCENT AFTER CAL-

1 ENDAR YEAR 2004.—This subsection shall not apply
2 to a qualified retiree described by paragraph (1)(B)
3 after calendar year 2004.”.

4 **SEC. 644. FULL SBP SURVIVOR BENEFITS FOR SURVIVING**
5 **SPOUSES OVER AGE 62.**

6 (a) PHASED INCREASE IN BASIC ANNUITY.—

7 (1) INCREASE TO 55 PERCENT.—Subsection
8 (a)(1)(B)(i) of section 1451 of title 10, United
9 States Code, is amended by striking “35 percent of
10 the base amount.” and inserting “the product of the
11 base amount and the percent applicable for the
12 month. The percent applicable for a month is 35
13 percent for months beginning before October 2005,
14 40 percent for months beginning after September
15 2005 and before October 2008, 45 percent for
16 months beginning after September 2008, and 55
17 percent for months beginning after September
18 2014.”.

19 (2) RESERVE-COMPONENT ANNUITY.—Sub-
20 section (a)(2)(B)(i)(I) of such section is amended by
21 striking “35 percent” and inserting “the percent
22 specified under paragraph (1)(B)(i) as being applica-
23 ble for the month”.

24 (3) SPECIAL-ELIGIBILITY ANNUITY.—Sub-
25 section (c)(1)(B)(i) of such section is amended—

1 (A) by striking “35 percent” and inserting
2 “the applicable percent”; and

3 (B) by adding at the end the following:
4 “The percent applicable for a month under the
5 preceding sentence is the percent specified
6 under subsection (a)(1)(B)(i) as being applica-
7 ble for the month.”.

8 (4) CONFORMING AMENDMENT.—The heading
9 for subsection (d)(2)(A) of such section is amended
10 to read as follows: “COMPUTATION OF ANNU-
11 ITY.—”.

12 (b) PHASED ELIMINATION OF SUPPLEMENTAL AN-
13 NUIITY.—

14 (1) DECREASING PERCENTAGES.—Section
15 1457(b) of title 10, United States Code, is
16 amended—

17 (A) by striking “5, 10, 15, or 20 percent”
18 and inserting “the applicable percent”; and

19 (B) by inserting after the first sentence
20 the following: “The percent used for the com-
21 putation shall be an even multiple of 5 percent
22 and, whatever the percent specified in the elec-
23 tion, may not exceed 20 percent for months be-
24 ginning before October 2005, 15 percent for
25 months beginning after September 2005 and

1 before October 2008, and 10 percent for
2 months beginning after September 2008.”.

3 (2) REPEAL OF PROGRAM IN 2014.—Effective
4 on October 1, 2014, chapter 73 of such title is
5 amended—

6 (A) by striking subchapter III; and

7 (B) by striking the item relating to sub-
8 chapter III in the table of subchapters at the
9 beginning of that chapter.

10 (c) RECOMPUTATION OF ANNUITIES.—

11 (1) REQUIREMENT FOR RECOMPUTATION.—Ef-
12 fective on the first day of each month referred to in
13 paragraph (2)—

14 (A) each annuity under section 1450 of
15 title 10, United States Code, that commenced
16 before that month, is computed under a provi-
17 sion of section 1451 of that title amended by
18 subsection (a), and is payable for that month
19 shall be recomputed so as to be equal to the
20 amount that would be in effect if the percent
21 applicable for that month under that provision,
22 as so amended, had been used for the initial
23 computation of the annuity; and

24 (B) each supplemental survivor annuity
25 under section 1457 of such title that com-

1 menced before that month and is payable for
2 that month shall be recomputed so as to be
3 equal to the amount that would be in effect if
4 the percent applicable for that month under
5 that section, as amended by this section, had
6 been used for the initial computation of the
7 supplemental survivor annuity.

8 (2) TIMES FOR RECOMPUTATION.—The require-
9 ments for recomputation of annuities under para-
10 graph (1) apply with respect to the following
11 months:

12 (A) October 2005.

13 (B) October 2008.

14 (C) October 2014.

15 (d) RECOMPUTATION OF RETIRED PAY REDUCTIONS
16 FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Sec-
17 retary of Defense shall take such actions as are neces-
18 sitated by the amendments made by subsection (b) and
19 the requirements of subsection (c)(1)(B) to ensure that
20 the reductions in retired pay under section 1460 of title
21 10, United States Code, are adjusted to achieve the objec-
22 tives set forth in subsection (b) of that section.

1 **SEC. 645. OPEN ENROLLMENT PERIOD FOR SURVIVOR BEN-**
2 **EFIT PLAN COMMENCING OCTOBER 1, 2005.**

3 (a) PERSONS NOT CURRENTLY PARTICIPATING IN
4 SURVIVOR BENEFIT PLAN.—

5 (1) ELECTION OF SBP COVERAGE.—An eligible
6 retired or former member may elect to participate in
7 the Survivor Benefit Plan under subchapter II of
8 chapter 73 of title 10, United States Code, during
9 the open enrollment period specified in subsection
10 (f).

11 (2) ELECTION OF SUPPLEMENTAL ANNUITY
12 COVERAGE.—An eligible retired or former member
13 who elects under paragraph (1) to participate in the
14 Survivor Benefit Plan at the maximum level may
15 also elect during the open enrollment period to par-
16 ticipate in the Supplemental Survivor Benefit Plan
17 established under subchapter III of chapter 73 of
18 title 10, United States Code.

19 (3) ELIGIBLE RETIRED OR FORMER MEMBER.—
20 For purposes of paragraphs (1) and (2), an eligible
21 retired or former member is a member or former
22 member of the uniformed services who on the day
23 before the first day of the open enrollment period is
24 not a participant in the Survivor Benefit Plan and—

25 (A) is entitled to retired pay; or

1 (B) would be entitled to retired pay under
 2 chapter 1223 of title 10, United States Code,
 3 but for the fact that such member or former
 4 member is under 60 years of age.

5 (4) STATUS UNDER SBP OF PERSONS MAKING
 6 ELECTIONS.—

7 (A) STANDARD ANNUITY.—A person mak-
 8 ing an election under paragraph (1) by reason
 9 of eligibility under paragraph (3)(A) shall be
 10 treated for all purposes as providing a standard
 11 annuity under the Survivor Benefit Plan.

12 (B) RESERVE-COMPONENT ANNUITY.—A
 13 person making an election under paragraph (1)
 14 by reason of eligibility under paragraph (3)(B)
 15 shall be treated for all purposes as providing a
 16 reserve-component annuity under the Survivor
 17 Benefit Plan.

18 (b) ELECTION TO INCREASE COVERAGE UNDER
 19 SBP.—A person who on the day before the first day of
 20 the open enrollment period is a participant in the Survivor
 21 Benefit Plan but is not participating at the maximum base
 22 amount or is providing coverage under the Plan for a de-
 23 pendent child and not for the person's spouse or former
 24 spouse may, during the open enrollment period, elect to—

1 (1) participate in the Plan at a higher base
2 amount (not in excess of the participant's retired
3 pay); or

4 (2) provide annuity coverage under the Plan for
5 the person's spouse or former spouse at a base
6 amount not less than the base amount provided for
7 the dependent child.

8 (c) ELECTION FOR CURRENT SBP PARTICIPANTS TO
9 PARTICIPATE IN SUPPLEMENTAL SBP.—

10 (1) ELECTION.—A person who is eligible to
11 make an election under this paragraph may elect
12 during the open enrollment period to participate in
13 the Supplemental Survivor Benefit Plan established
14 under subchapter III of chapter 73 of title 10,
15 United States Code.

16 (2) PERSONS ELIGIBLE.—Except as provided in
17 paragraph (3), a person is eligible to make an elec-
18 tion under paragraph (1) if on the day before the
19 first day of the open enrollment period the person is
20 a participant in the Survivor Benefit Plan at the
21 maximum level, or during the open enrollment pe-
22 riod the person increases the level of such participa-
23 tion to the maximum level under subsection (b) of
24 this section, and under that Plan is providing annu-

1 ity coverage for the person's spouse or a former
2 spouse.

3 (3) LIMITATION ON ELIGIBILITY FOR CERTAIN
4 SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER
5 ANNUITY COMPUTATION.—A person is not eligible to
6 make an election under paragraph (1) if (as deter-
7 mined by the Secretary concerned) the annuity of a
8 spouse or former spouse beneficiary of that person
9 under the Survivor Benefit Plan is to be computed
10 under section 1451(e) of title 10, United States
11 Code. However, such a person may during the open
12 enrollment period waive the right to have that annu-
13 ity computed under such section 1451(e). Any such
14 election is irrevocable. A person making such a waiv-
15 er may make an election under paragraph (1) as in
16 the case of any other participant in the Survivor
17 Benefit Plan.

18 (d) MANNER OF MAKING ELECTIONS.—An election
19 under this section shall be made in writing, signed by the
20 person making the election, and received by the Secretary
21 concerned before the end of the open enrollment period.
22 Any such election shall be made subject to the same condi-
23 tions, and with the same opportunities for designation of
24 beneficiaries and specification of base amount, that apply
25 under the Survivor Benefit Plan or the Supplemental Sur-

1 vivor Benefit Plan, as the case may be. A person making
2 an election under subsection (a) to provide a reserve-com-
3 ponent annuity shall make a designation described in sec-
4 tion 1448(e) of title 10, United States Code.

5 (e) EFFECTIVE DATE FOR ELECTIONS.—Any such
6 election shall be effective as of the first day of the first
7 calendar month following the month in which the election
8 is received by the Secretary concerned.

9 (f) OPEN ENROLLMENT PERIOD.—The open enroll-
10 ment period under this section shall be the one-year period
11 beginning on October 1, 2005.

12 (g) EFFECT OF DEATH OF PERSON MAKING ELEC-
13 TION WITHIN TWO YEARS OF MAKING ELECTION.—If a
14 person making an election under this section dies before
15 the end of the two-year period beginning on the effective
16 date of the election, the election is void and the amount
17 of any reduction in retired pay of the person that is attrib-
18 utable to the election shall be paid in a lump sum to the
19 person who would have been the deceased person's bene-
20 ficiary under the voided election if the deceased person
21 had died after the end of such two-year period.

22 (h) APPLICABILITY OF CERTAIN PROVISIONS OF
23 LAW.—The provisions of sections 1449, 1453, and 1454
24 of title 10, United States Code, are applicable to a person
25 making an election, and to an election, under this section

1 in the same manner as if the election were made under
2 the Survivor Benefit Plan or the Supplemental Survivor
3 Benefit Plan, as the case may be.

4 (i) **ADDITIONAL PREMIUM.**—The Secretary of De-
5 fense shall prescribe in regulations premiums which a per-
6 son electing under this section shall be required to pay
7 for participating in the Survivor Benefit Plan pursuant
8 to the election. The total amount of the premiums to be
9 paid by a person under the regulations shall be equal to
10 the sum of—

11 (i) the total amount by which the retired pay of
12 the person would have been reduced before the effec-
13 tive date of the election if the person had elected to
14 participate in the Survivor Benefit Plan (for the
15 same base amount specified in the election) at the
16 first opportunity that was afforded the member to
17 participate under chapter 73 of title 10, United
18 States Code;

19 (ii) interest on the amounts by which the re-
20 tired pay of the person would have been so reduced,
21 computed from the dates on which the retired pay
22 would have been so reduced at such rate or rates
23 and according to such methodology as the Secretary
24 of Defense determines reasonable; and

1 (iii) any additional amount that the Secretary
 2 determines necessary to protect the actuarial sound-
 3 ness of the Department of Defense Military Retire-
 4 ment Fund against any increased risk for the fund
 5 that is associated with the election.

6 (A) Premiums paid under the regulations shall be
 7 credited to the Department of Defense Military Retire-
 8 ment Fund.

9 (B) In this paragraph, the term “Department of De-
 10 fense Military Retirement Fund” means the Department
 11 of Defense Military Retirement Fund established under
 12 section 1461(a) of title 10, United States Code.

13 **Subtitle E—Other Matters**

14 **SEC. 651. INCREASED MAXIMUM PERIOD FOR LEAVE OF AB-** 15 **SENCE FOR PURSUIT OF A PROGRAM OF EDU-** 16 **CATION IN A HEALTH CARE PROFESSION.**

17 Section 708(a) of title 10, United States Code, is
 18 amended—

19 (1) by striking “for a period not to exceed two
 20 years”; and

21 (2) by adding at the end the following: “The
 22 period of a leave of absence granted under this sec-
 23 tion may not exceed two years, except that the pe-
 24 riod may exceed two years but may not exceed three

1 years in the case of an eligible member pursuing a
2 program of education in a health care profession.”.

3 **SEC. 652. ELIGIBILITY OF MEMBERS FOR REIMBURSEMENT**
4 **OF EXPENSES INCURRED FOR ADOPTION**
5 **PLACEMENTS MADE BY FOREIGN GOVERN-**
6 **MENTS.**

7 Section 1052(g)(3) of title 10, United States Code,
8 is amended by adding at the end the following new sub-
9 paragraph:

10 “(D) A foreign government or an agency
11 authorized by a foreign government to place
12 children for adoption, in any case in which—

13 “(i) the adopted child is entitled to
14 automatic citizenship under section 320 of
15 the Immigration and Nationality Act (8
16 U.S.C. 1431); or

17 “(ii) a certificate of citizenship has
18 been issued for such child under section
19 322 of that Act (8 U.S.C. 1433).”.

1 **SEC. 653. ACCEPTANCE OF FREQUENT TRAVELER MILES,**
2 **CREDITS, AND TICKETS TO FACILITATE THE**
3 **AIR OR SURFACE TRAVEL OF CERTAIN MEM-**
4 **BERS OF THE ARMED FORCES AND THEIR**
5 **FAMILIES.**

6 Section 2608 of title 10, United States Code, is
7 amended—

8 (1) by redesignating subsections (g) through (k)
9 as subsections (h) through (l), respectively; and

10 (2) by inserting after subsection (f) the fol-
11 lowing new subsection:

12 “(g) OPERATION HERO MILES.—(1) The Secretary
13 of Defense may use the authority of subsection (a) to ac-
14 cept the donation of frequent traveler miles, credits, and
15 tickets for air or surface transportation issued by any air
16 carrier or surface carrier that serves the public and that
17 consents to such donation, and under such terms and con-
18 ditions as the air or surface carrier may specify. The Sec-
19 retary shall designate a single office in the Department
20 of Defense to carry out this subsection, including the es-
21 tablishment of such rules and procedures as may be nec-
22 essary to facilitate the acceptance of such frequent trav-
23 eler miles, credits, and tickets.

24 “(2) Frequent traveler miles, credits, and tickets ac-
25 cepted under this subsection shall be used only in accord-
26 ance with the rules established by the air carrier or surface

1 carrier that is the source of the miles, credits, or tickets
2 and shall be used only for the following purposes:

3 “(A) To facilitate the travel of a member of the
4 armed forces who—

5 “(i) is deployed on active duty outside the
6 United States away from the permanent duty
7 station of the member in support of a contin-
8 gency operation; and

9 “(ii) is granted, during such deployment,
10 rest and recuperative leave, emergency leave,
11 convalescent leave, or another form of leave au-
12 thorized for the member.

13 “(B) In the case of a member of the armed
14 forces recuperating from an injury or illness in-
15 curred or aggravated in the line of duty during such
16 deployment, to facilitate the travel of family mem-
17 bers of the member to be reunited with the member.

18 “(3) For the use of miles, credits, or tickets under
19 paragraph (2)(B) by family members of a member of the
20 armed forces, the Secretary may, as the Secretary deter-
21 mines appropriate, limit—

22 “(A) eligibility to family members who, by rea-
23 son of affinity, degree of consanguinity, or other-
24 wise, are sufficiently close in relationship to the

1 member of the armed forces to justify the travel as-
2 sistance;

3 “(B) the number of family members who may
4 travel; and

5 “(C) the number of trips that family members
6 may take.

7 “(4) Notwithstanding paragraph (2), the Secretary of
8 Defense may, in an exceptional case, authorize a person
9 not described in subparagraph (B) of that paragraph to
10 use frequent traveler miles, credits, or a ticket accepted
11 under this subsection to visit a member of the armed
12 forces described in such subparagraph if that person has
13 a notably close relationship with the member. The fre-
14 quent traveler miles, credits, or ticket may be used by such
15 person only in accordance with such conditions and re-
16 strictions as the Secretary determines appropriate and the
17 rules established by the air carrier or surface carrier that
18 is the source of the miles, credits, or ticket.

19 “(5) The Secretary of Defense shall encourage air
20 carriers and surface carriers to participate in, and to fa-
21 cilitate through minimization of restrictions and otherwise,
22 the donation, acceptance, and use of frequent traveler
23 miles, credits, and tickets under this section.

1 “(6) The Secretary of Defense may enter into an
2 agreement with a nonprofit organization to use the serv-
3 ices of the organization—

4 “(A) to promote the donation of frequent trav-
5 eler miles, credits, and tickets under paragraph (1),
6 except that amounts appropriated to the Depart-
7 ment of Defense may not be expended for this pur-
8 pose; and

9 “(B) to assist in administering the collection,
10 distribution, and use of donated frequent traveler
11 miles, credits, and tickets.

12 “(7) Members of the armed forces, family members,
13 and other persons who receive air or surface transpor-
14 tation using frequent traveler miles, credits, or tickets do-
15 nated under this subsection are deemed to recognize no
16 income from such use. Donors of frequent traveler miles,
17 credits, or tickets under this subsection are deemed to ob-
18 tain no tax benefit from such donation.

19 “(8) In this subsection, the term ‘family member’ has
20 the meaning given that term in section 411h(b)(1) of title
21 37.”.

1 **SEC. 654. CHILD CARE FOR CHILDREN OF MEMBERS OF**
2 **ARMED FORCES ON ACTIVE DUTY FOR OPER-**
3 **ATION ENDURING FREEDOM OR OPERATION**
4 **IRAQI FREEDOM.**

5 (a) CHILD CARE FOR CHILDREN WITHOUT ACCESS
6 TO MILITARY CHILD CARE.—(1) In any case where the
7 children of a covered member of the Armed Forces are
8 geographically dispersed and do not have practical access
9 to a military child development center, the Secretary of
10 Defense may, to the extent funds are available for such
11 purpose, provide such funds as are necessary permit the
12 member's family to secure access for such children to
13 State licensed child care and development programs and
14 activities in the private sector that are similar in scope
15 and quality to the child care and development programs
16 and activities the Secretary would otherwise provide access
17 to under subchapter II of chapter 88 of title 10, United
18 States Code, and other applicable provisions of law.

19 (2) Funds may be provided under paragraph (1) in
20 accordance with the provisions of section 1798 of title 10,
21 United States Code, or by such other mechanism as the
22 Secretary considers appropriate.

23 (3) The Secretary shall prescribe in regulations prior-
24 ities for the allocation of funds for the provision of access
25 to child care under paragraph (1) in circumstances where
26 funds are inadequate to provide all children described in

1 that paragraph with access to child care as described in
2 that paragraph.

3 (b) PRESERVATION OF SERVICES AND PROGRAMS.—

4 The Secretary shall provide for the attendance and partici-
5 pation of children in military child development centers
6 and child care and development programs and activities
7 under subsection (a) in a manner that preserves the scope
8 and quality of child care and development programs and
9 activities otherwise provided by the Secretary.

10 (c) FUNDING.—Amounts otherwise available to the
11 Department of Defense and the military departments
12 under this Act may be available for purposes of providing
13 access to child care under subsection (a).

14 (d) DEFINITIONS.—In this section:

15 (1) The term “covered members of the Armed
16 Forces” means members of the Armed Forces on ac-
17 tive duty, including members of the Reserves who
18 are called or ordered to active duty under a provi-
19 sion of law referred to in section 101(a)(13)(B) of
20 title 10, United States Code, for Operation Endur-
21 ing Freedom or Operation Iraqi Freedom.

22 (2) The term “military child development cen-
23 ter” has the meaning given such term in section
24 1800(1) of title 10, United States Code.

1 **SEC. 655. RELIEF FOR MOBILIZED MILITARY RESERVISTS**
 2 **FROM CERTAIN FEDERAL AGRICULTURAL**
 3 **LOAN OBLIGATIONS.**

4 The Consolidated Farm and Rural Development Act
 5 is amended by inserting after section 331F (7 U.S.C.
 6 1981f) the following:

7 **“SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS**
 8 **FROM CERTAIN AGRICULTURAL LOAN OBLI-**
 9 **GATIONS.**

10 “(a) DEFINITION OF MOBILIZED MILITARY RESERV-
 11 IST.—In this section, the term ‘mobilized military reserv-
 12 ist’ means an individual who—

13 “(1) is on active duty under section 688,
 14 12301(a), 12301(g), 12302, 12304, 12306, or
 15 12406, or chapter 15 of title 10, United States
 16 Code, or any other provision of law during a war or
 17 during a national emergency declared by the Presi-
 18 dent or Congress, regardless of the location at which
 19 the active duty service is performed; or

20 “(2) in the case of a member of the National
 21 Guard, is on full-time National Guard duty (as de-
 22 fined in section 101(d)(5) of title 10, United States
 23 Code) under a call to active service authorized by
 24 the President or the Secretary of Defense for a pe-
 25 riod of more than 30 consecutive days under section
 26 502(f) of title 32, United States Code, for purposes

1 of responding to a national emergency declared by
2 the President and supported by Federal funds.

3 “(b) FORGIVENESS OF INTEREST PAYMENTS DUE
4 WHILE BORROWER IS A MOBILIZED MILITARY RESERV-
5 IST.—Any requirement that a borrower of a direct loan
6 made under this title make any interest payment on the
7 loan that would otherwise be required to be made while
8 the borrower is a mobilized military reservist is rescinded.

9 “(c) DEFERRAL OF PRINCIPAL PAYMENTS DUE
10 WHILE OR AFTER BORROWER IS A MOBILIZED MILITARY
11 RESERVIST.—The due date of any payment of principal
12 on a direct loan made to a borrower under this title that
13 would otherwise be required to be made while or after the
14 borrower is a mobilized military reservist is deferred for
15 a period equal in length to the period for which the bor-
16 rower is a mobilized military reservist.

17 “(d) NONACCRUAL OF INTEREST.—Interest on a di-
18 rect loan made to a borrower described in this section shall
19 not accrue during the period the borrower is a mobilized
20 military reservist.

21 “(e) BORROWER NOT CONSIDERED TO BE DELIN-
22 QUENT OR RECEIVING DEBT FORGIVENESS.—Notwith-
23 standing section 373 or any other provision of this title,
24 a borrower who receives assistance under this section shall
25 not, as a result of the assistance, be considered to be delin-

1 quent or receiving debt forgiveness for purposes of receiv-
2 ing a direct or guaranteed loan under this title.”.

3 **TITLE VII—HEALTH CARE**
4 **Subtitle A—Enhanced Benefits for**
5 **Reserves**

6 **SEC. 701. DEMONSTRATION PROJECT ON HEALTH BENE-**
7 **FITS FOR RESERVES.**

8 (a) DEMONSTRATION PROJECT REQUIRED.—The
9 Secretary of Defense shall carry out a demonstration
10 project under section 1092 of title 10, United States Code,
11 to assess the need for, and feasibility of, providing benefits
12 under the TRICARE program to members of the Ready
13 Reserve of the Armed Forces who are (1) eligible unem-
14 ployment compensation recipients, (2) in a period of con-
15 tinuous unemployment from the end of their last month
16 as eligible unemployment compensation recipients, or (3)
17 ineligible for coverage by employer-sponsored health bene-
18 fits plans for employees.

19 (b) DEFINITION.—In this section, the term “eligible
20 unemployment compensation recipient” has the meaning
21 given such term in section 1076b(j) of title 10, United
22 States Code.

1 **SEC. 702. PERMANENT EARLIER ELIGIBILITY DATE FOR**
2 **TRICARE BENEFITS FOR MEMBERS OF RE-**
3 **SERVE COMPONENTS.**

4 Section 1074(d) of title 10, United States Code, is
5 amended by striking paragraph (3).

6 **SEC. 703. WAIVER OF CERTAIN DEDUCTIBLES FOR MEM-**
7 **BERS ON ACTIVE DUTY FOR A PERIOD OF**
8 **MORE THAN 30 DAYS.**

9 Section 1095d(a) of title 10, United States Code, is
10 amended by striking “a period of less than one year” both
11 places that it appears and inserting “a period of more
12 than 30 days”.

13 **SEC. 704. PROTECTION OF DEPENDENTS FROM BALANCE**
14 **BILLING.**

15 Section 1079(h)(4) of title 10, United States Code,
16 is amended by adding at the end the following new sub-
17 paragraph:

18 “(C) In the case of a member of the reserve compo-
19 nents serving on active duty for a period of more than
20 30 days in support of a contingency operation under a
21 provision of law referred to in section 101(a)(13)(B) of
22 this title, the Secretary may pay the amount applicable
23 under subparagraph (B) to a dependent of such member
24 who is referred to in subparagraph (A).”.

1 **SEC. 705. PERMANENT EXTENSION OF TRANSITIONAL**
2 **HEALTH CARE BENEFITS AND ADDITION OF**
3 **REQUIREMENT FOR PRESEPARATION PHYS-**
4 **ICAL EXAMINATION.**

5 (a) PERMANENT REQUIREMENT.—(1) Paragraph (3)
6 of section 1145(a) of title 10, United States Code, is
7 amended to read as follows:

8 “(3) Transitional health care for a member under
9 subsection (a) shall be available for 180 days beginning
10 on the date on which the member is separated from active
11 duty.”.

12 (2) The following provisions of law are repealed:

13 (A) Section 704 of the National Defense Au-
14 thorization Act for Fiscal Year 2004 (Public Law
15 108–136; 117 Stat. 1527; 10 U.S.C. 1145 note).

16 (B) Section 1117 of the Emergency Supple-
17 mental Appropriations Act for Defense and for the
18 Reconstruction of Iraq and Afghanistan, 2004 (Pub-
19 lic Law 108–106; 117 Stat. 1218; 10 U.S.C. 1145
20 note).

21 (b) REQUIREMENT FOR PHYSICAL EXAMINATION.—
22 Such section 1145(a), as amended by subsection (a), is
23 further amended by adding at the end the following new
24 paragraph:

25 “(4) The Secretary concerned shall require each
26 member referred to in paragraph (1) to undergo a com-

1 prehensive physical examination immediately before the
2 member is separated from active duty as described in
3 paragraph (2).”.

4 **SEC. 706. EXPANDED ELIGIBILITY OF READY RESERVE**
5 **MEMBERS UNDER TRICARE PROGRAM.**

6 (a) UNCONDITIONAL ELIGIBILITY.—Subsection (a)
7 of section 1076b of title 10, United States Code, is amend-
8 ed by striking “is eligible, subject to subsection (h), to en-
9 roll in TRICARE” and all that follows through “an em-
10 ployer-sponsored health benefits plan” and inserting “, ex-
11 cept for a member who is enrolled or is eligible to enroll
12 in a health benefits plan under chapter 89 of title 5, is
13 eligible to enroll in TRICARE, subject to subsection (h)”.

14 (b) PERMANENT AUTHORITY.—Subsection (l) of such
15 section is repealed.

16 (c) CONFORMING REPEAL OF OBSOLETE PROVI-
17 SIONS.—Such section is further amended—

18 (1) by striking subsections (i) and (j); and

19 (2) by redesignating subsection (k) as sub-
20 section (i).

1 **SEC. 707. CONTINUATION OF NON-TRICARE HEALTH BENE-**
2 **FITS PLAN COVERAGE FOR CERTAIN RE-**
3 **SERVES CALLED OR ORDERED TO ACTIVE**
4 **DUTY AND THEIR DEPENDENTS.**

5 (a) **REQUIRED CONTINUATION.**—(1) Chapter 55 of
6 title 10, United States Code, is amended by inserting after
7 section 1078a the following new section:

8 **“§ 1078b. Continuation of non-TRICARE health bene-**
9 **fits plan coverage for dependents of cer-**
10 **tain Reserves called or ordered to active**
11 **duty**

12 “(a) **PAYMENT OF PREMIUMS.**—The Secretary con-
13 cerned shall pay the applicable premium to continue in
14 force any qualified health benefits plan coverage for the
15 members of the family of an eligible reserve component
16 member for the benefits coverage continuation period if
17 timely elected by the member in accordance with regula-
18 tions prescribed under subsection (j).

19 “(b) **ELIGIBLE MEMBER; FAMILY MEMBERS.**—(1) A
20 member of a reserve component is eligible for payment of
21 the applicable premium for continuation of qualified
22 health benefits plan coverage under subsection (a) while
23 serving on active duty pursuant to a call or order issued
24 under a provision of law referred to in section
25 101(a)(13)(B) of this title during a war or national emer-
26 gency declared by the President or Congress.

1 “(2) For the purposes of this section, the members
2 of the family of an eligible reserve component member in-
3 clude only the member’s dependents described in subpara-
4 graphs (A), (D), and (I) of section 1072(2) of this title.

5 “(c) QUALIFIED HEALTH BENEFITS PLAN COV-
6 ERAGE.—For the purposes of this section, health benefits
7 plan coverage for the members of the family of a reserve
8 component member called or ordered to active duty is
9 qualified health benefits plan coverage if—

10 “(1) the coverage was in force on the date on
11 which the Secretary notified the reserve component
12 member that issuance of the call or order was pend-
13 ing or, if no such notification was provided, the date
14 of the call or order;

15 “(2) on such date, the coverage applied to the
16 reserve component member and members of the fam-
17 ily of the reserve component member; and

18 “(3) the coverage has not lapsed.

19 “(d) APPLICABLE PREMIUM.—The applicable pre-
20 mium payable under this section for continuation of health
21 benefits plan coverage for the family members of a reserve
22 component member is the amount of the premium payable
23 by the member for the coverage of the family members.

24 “(e) MAXIMUM AMOUNT.—The total amount that the
25 Department of Defense may pay for the applicable pre-

1 mium of a health benefits plan for the family members
2 of a reserve component member under this section in a
3 fiscal year may not exceed the amount determined by
4 multiplying—

5 “(1) the sum of one plus the number of the
6 family members covered by the health benefits plan,
7 by

8 “(2) the per capita cost of providing TRICARE
9 coverage and benefits for dependents under this
10 chapter for such fiscal year, as determined by the
11 Secretary of Defense.

12 “(f) BENEFITS COVERAGE CONTINUATION PE-
13 RIOD.—The benefits coverage continuation period under
14 this section for qualified health benefits plan coverage for
15 the family members of an eligible reserve component mem-
16 ber called or ordered to active duty is the period that—

17 “(1) begins on the date of the call or order; and

18 “(2) ends on the earlier of—

19 “(A) the date on which the reserve compo-
20 nent member’s eligibility for transitional health
21 care under section 1145(a) of this title termi-
22 nates under paragraph (3) of such section; or

23 “(B) the date on which the reserve compo-
24 nent member elects to terminate the continued

1 qualified health benefits plan coverage of the
2 member's family members.

3 “(g) EXTENSION OF PERIOD OF COBRA COV-
4 ERAGE.—Notwithstanding any other provision of law—

5 “(1) any period of coverage under a COBRA
6 continuation provision (as defined in section
7 9832(d)(1) of the Internal Revenue Code of 1986)
8 for an eligible reserve component member under this
9 section shall be deemed to be equal to the benefits
10 coverage continuation period for such member under
11 this section; and

12 “(2) with respect to the election of any period
13 of coverage under a COBRA continuation provision
14 (as so defined), rules similar to the rules under sec-
15 tion 4980B(f)(5)(C) of such Code shall apply.

16 “(h) NONDUPLICATION OF BENEFITS.—A member of
17 the family of a reserve component member who is eligible
18 for benefits under qualified health benefits plan coverage
19 paid on behalf of the reserve component member by the
20 Secretary concerned under this section is not eligible for
21 benefits under the TRICARE program during a period of
22 the coverage for which so paid.

23 “(i) REVOCABILITY OF ELECTION.—A reserve com-
24 ponent member who makes an election under subsection
25 (a) may revoke the election. Upon such a revocation, the

1 member's family members shall become eligible for bene-
2 fits under the TRICARE program as provided for under
3 this chapter.

4 “(j) REGULATIONS.—The Secretary of Defense shall
5 prescribe regulations for carrying out this section. The
6 regulations shall include such requirements for making an
7 election of payment of applicable premiums as the Sec-
8 retary considers appropriate.”.

9 (2) The table of sections at the beginning of such
10 chapter is amended by inserting after the item relating
11 to section 1078a the following new item:

“1078b. Continuation of non-TRICARE health benefits plan coverage for de-
pendents of certain Reserves called or ordered to active duty.”.

12 (b) APPLICABILITY.—Section 1078b of title 10,
13 United States Code (as added by subsection (a)), shall
14 apply with respect to calls or orders of members of reserve
15 components of the Armed Forces to active duty as de-
16 scribed in subsection (b) of such section, that are issued
17 by the Secretary of a military department before, on, or
18 after the date of the enactment of this Act, but only with
19 respect to qualified health benefits plan coverage (as de-
20 scribed in subsection (c) of such section) that is in effect
21 on or after the date of the enactment of this Act.

1 **Subtitle B—Other Matters**

2 **SEC. 711. REPEAL OF REQUIREMENT FOR PAYMENT OF**
3 **SUBSISTENCE CHARGES WHILE HOSPITAL-**
4 **IZED.**

5 (a) REPEAL.—Section 1075 of title 10, United States
6 Code, is repealed.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 55 of such title is amended
9 by striking the item relating to section 1075.

10 **SEC. 712. OPPORTUNITY FOR YOUNG CHILD DEPENDENT**
11 **OF DECEASED MEMBER TO BECOME ELIGI-**
12 **BLE FOR ENROLLMENT IN A TRICARE DEN-**
13 **TAL PLAN.**

14 Section 1076a(k)(2) of title 10, United States Code,
15 is amended—

16 (1) by striking “under subsection (a) or” and
17 inserting “under subsection (a),”; and

18 (2) by inserting after “under subsection (f),”
19 the following: “or is not enrolled because the de-
20 pendent is a child under the minimum age for en-
21 rollment,”.

22 **SEC. 713. PEDIATRIC DENTAL PRACTICE NECESSARY FOR**
23 **PROFESSIONAL ACCREDITATION.**

24 Section 1077(c) of title 10, United States Code, is
25 amended—

1 (1) by striking “A dependent” and inserting
2 “(1) Except as specified in paragraph (2), a depend-
3 ent”; and

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

6 “(2)(A) Dependents 12 years of age or younger who
7 are covered by a dental plan under section 1076a of this
8 title may be treated by postgraduate dental students in
9 a dental treatment facility of the uniformed services ac-
10 credited by the American Dental Association under a
11 graduate dental education program accredited by the
12 American Dental Association if—

13 “(i) treatment of pediatric dental patients is
14 necessary in order to satisfy an accreditation stand-
15 ard of the American Dental Association that is ap-
16 plicable to such facility or program, or training in
17 pediatric dental care is necessary for the students to
18 be professionally qualified to provide dental care for
19 dependent children accompanying members of the
20 uniformed services outside the United States; and

21 “(ii) the caseload of pediatric patients at such
22 facility is insufficient to support satisfaction of the
23 accreditation or professional requirements in pedi-
24 atric dental care that apply to such facility, pro-
25 gram, or students.

1 “(B) The total number of dependents treated in all
2 facilities of the uniformed services under subparagraph
3 (A) in a fiscal year may not exceed 2,000.”.

4 **SEC. 714. SERVICES OF MARRIAGE AND FAMILY THERA-**
5 **PISTS.**

6 (a) **AUTHORITY TO ENTER INTO PERSONAL SERV-**
7 **ICES CONTRACTS.**—Section 704(c)(2) of the National De-
8 fense Authorization Act for Fiscal Year 1995 (Public Law
9 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amend-
10 ed by inserting “marriage and family therapists certified
11 as such by a certification recognized by the Secretary of
12 Defense,” after “psychologists,”.

13 (b) **APPLICABILITY OF LICENSURE REQUIREMENT**
14 **FOR HEALTH-CARE PROFESSIONALS.**—Section
15 1094(e)(2) of title 10, United States Code, is amended
16 by inserting “marriage and family therapist certified as
17 such by a certification recognized by the Secretary of De-
18 fense,” after “psychologist,”.

19 **SEC. 715. CHIROPRACTIC HEALTH CARE BENEFITS ADVI-**
20 **SORY COMMITTEE.**

21 (a) **ESTABLISHMENT.**—Not later than 30 days after
22 the date of the enactment of this Act, the Secretary of
23 Defense shall establish an oversight advisory committee to
24 provide the Secretary with advice and recommendations
25 regarding the continued development and implementation

1 of an effective program of chiropractic health care benefits
2 for members of the uniformed services on active duty.

3 (b) MEMBERSHIP.—The advisory committee shall be
4 composed of members selected from among persons who,
5 by reason of education, training, and experience, are ex-
6 perts in chiropractic health care, as follows:

7 (1) Members appointed by the Secretary of De-
8 fense in such number as the Secretary determines
9 appropriate for carrying out the duties of the advi-
10 sory committee effectively.

11 (2) A representative of each of the Armed
12 Forces, as designated by the Secretary of the mili-
13 tary department concerned.

14 (c) CHAIRMAN.—The Secretary of Defense shall des-
15 ignate one member of the advisory committee to serve as
16 the Chairman of the advisory committee.

17 (d) MEETINGS.—The advisory committee shall meet
18 at the call of the Chairman, but not fewer than three times
19 each fiscal year, beginning in fiscal year 2005.

20 (e) DUTIES.—The advisory committee shall have the
21 following duties:

22 (1) Review and evaluate the program of chiro-
23 practic health care benefits provided to members of
24 the uniformed services on active duty under chapter
25 55 of title 10, United States Code.

1 (2) Provide the Secretary of Defense with ad-
2 vice and recommendations as described in subsection
3 (a).

4 (3) Upon the Secretary's determination that the
5 program of chiropractic health care benefits referred
6 to in paragraph (1) has been fully implemented, pre-
7 pare and submit to the Secretary a report containing
8 the advisory committee's evaluation of such program
9 as implemented.

10 (f) APPLICABILITY OF TEMPORARY ORGANIZATIONS

11 LAW.—(1) Section 3161 of title 5, United States Code,
12 shall apply to the advisory committee under this section.

13 (2) The Federal Advisory Committee Act (5 U.S.C.
14 App.) shall not apply to the oversight advisory committee
15 under this section.

16 (g) TERMINATION.—The advisory committee shall
17 terminate 90 days after the date on which the committee
18 submits the report to the Secretary of Defense under sub-
19 section (e)(3).

1 **SEC. 716. GROUNDS FOR PRESIDENTIAL WAIVER OF RE-**
2 **QUIREMENT FOR INFORMED CONSENT OR**
3 **OPTION TO REFUSE REGARDING ADMINIS-**
4 **TRATION OF DRUGS NOT APPROVED FOR**
5 **GENERAL USE.**

6 (a) INVESTIGATIONAL NEW DRUGS.—Section
7 1107(f) of title 10, United States Code, is amended—

8 (1) in paragraph (1), by striking “obtaining
9 consent—” and all that follows through “(C) is” and
10 inserting “obtaining consent is”; and

11 (2) by striking paragraph (2) and inserting the
12 following new paragraph:

13 “(2) The waiver authority provided in paragraph (1)
14 shall not be construed to apply to any case other than
15 a case in which prior consent for administration of a par-
16 ticular drug is required by reason of a determination by
17 the Secretary of Health and Human Services that such
18 drug is subject to the investigational new drug require-
19 ments of section 505(i) of the Federal Food, Drug, and
20 Cosmetic Act.”.

21 (b) EMERGENCY USE DRUGS.—Section 1107a(a) of
22 such title is amended—

23 (1) by inserting “(A)” after “PRESIDENT.—
24 (1)”;

25 (2) by striking “is not feasible,” and all that
26 follows through “members affected, or”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(B) The waiver authority provided in subparagraph
4 (A) shall not be construed to apply to any case other than
5 a case in which an individual is required to be informed
6 of an option to accept or refuse administration of a par-
7 ticular product by reason of a determination by the Sec-
8 retary of Health and Human Services that emergency use
9 of such product is authorized under section 564 of the
10 Federal Food, Drug, and Cosmetic Act.”.

11 **SEC. 717. ELIGIBILITY OF CADETS AND MIDSHIPMEN FOR**
12 **MEDICAL AND DENTAL CARE AND DIS-**
13 **ABILITY BENEFITS.**

14 (a) **MEDICAL AND DENTAL CARE.**—(1) Chapter 55
15 of title 10, United States Code, is amended by inserting
16 after section 1074a the following new section:

17 **“§ 1074b. Medical and dental care: cadets and mid-**
18 **shipmen**

19 “(a) **ELIGIBILITY.**—Under joint regulations pre-
20 scribed by the administering Secretaries, the following
21 persons are, except as provided in subsection (c), entitled
22 to the benefits described in subsection (b):

23 “(1) A cadet at the United States Military
24 Academy, the United States Air Force Academy, or
25 the Coast Guard Academy, and a midshipman at the

1 United States Naval Academy, who incurs or aggra-
2 vates an injury, illness, or disease in the line of duty.

3 “(2) Each member of, and each designated ap-
4 plicant for membership in, the Senior Reserve Offi-
5 cers’ Training Corps who incurs or aggravates an in-
6 jury, illness, or disease in the line of duty while per-
7 forming duties under section 2109 of this title.

8 “(b) BENEFITS.—A person eligible for benefits in
9 subsection (a) for an injury, illness, or disease is entitled
10 to—

11 “(1) the medical and dental care under this
12 chapter that is appropriate for the treatment of the
13 injury, illness, or disease until the injury, illness, dis-
14 ease, or any resulting disability cannot be materially
15 improved by further hospitalization or treatment;
16 and

17 “(2) meals during hospitalization.

18 “(c) EXCEPTION.—A person is not entitled to bene-
19 fits under subsection (b) for an injury, illness, or disease,
20 or the aggravation of an injury, illness, or disease that
21 is a result of the gross negligence or the misconduct of
22 that person.”.

23 (2) The table of sections at the beginning of such
24 chapter is amended by inserting after the item relating
25 to section 1074a the following new item:

“1074b. Medical and dental care: cadets and midshipmen of the service academies.”.

1 (b) ELIGIBILITY OF ACADEMY CADETS AND MID-
 2 SHIPMEN FOR DISABILITY RETIRED PAY.—(1)(A) Section
 3 1217 of title 10, United States Code, is amended to read
 4 as follows:

5 **“§ 1217. Cadets, midshipmen, and aviation cadets: ap-
 6 plicability of chapter**

7 “(a) This chapter applies to cadets at the United
 8 States Military Academy, the United States Air Force
 9 Academy, and the United States Coast Guard Academy
 10 and midshipmen of the United States Naval Academy.

11 “(b) Monthly cadet pay and monthly midshipman pay
 12 under section 203(e) of title 37 shall be considered to be
 13 basic pay for purposes of this chapter and the computation
 14 of retired pay and severance and separation pay to which
 15 entitlement is established under this chapter.”.

16 (B) The item related to section 1217 in the table of
 17 sections at the beginning of chapter 61 of such title is
 18 amended to read as follows:

“1217. Cadets, midshipmen, and aviation cadets: applicability of chapter.”.

19 (2) The amendments made by paragraph (1) shall
 20 take effect on October 1, 2004.

1 **SEC. 718. CONTINUATION OF SUB-ACUTE CARE FOR TRAN-**
 2 **SITION PERIOD.**

3 Section 1074j(b) of title 10, United States Code, is
 4 amended by adding at the end the following new para-
 5 graph:

6 “(4) The Secretary of Defense may take such actions
 7 as are necessary to ensure that there is an effective transi-
 8 tion in the furnishing of part-time or intermittent home
 9 health care benefits for covered beneficiaries who were re-
 10 ceiving such benefits before the establishment of the pro-
 11 gram under this section. The actions taken under this
 12 paragraph may include the continuation of such benefits
 13 on an extended basis for such time as the Secretary deter-
 14 mines appropriate.”.

15 **SEC. 719. TEMPORARY AUTHORITY FOR WAIVER OF COL-**
 16 **LECTION OF PAYMENTS DUE FOR CHAMPUS**
 17 **BENEFITS RECEIVED BY DISABLED PERSONS**
 18 **UNAWARE OF LOSS OF CHAMPUS ELIGI-**
 19 **BILITY.**

20 (a) **AUTHORITY TO WAIVE DEBT.**—(1) The Sec-
 21 retary of Defense, in consultation with the other admin-
 22 istering Secretaries, may waive (in whole or in part) the
 23 collection of payments otherwise due from a person de-
 24 scribed in subsection (b) for health benefits received by
 25 such person under section 1086 of title 10, United States

1 Code, after the termination of that person's eligibility for
2 such benefits.

3 (2) If the Secretary of Defense waives collection of
4 payments from a person under paragraph (1), the Sec-
5 retary may also authorize a continuation of benefits for
6 such person under such section 1086 for a period ending
7 not later than the end of the period specified in subsection
8 (c) of this section.

9 (b) ELIGIBLE PERSONS.—A person is eligible for re-
10 lief under subsection (a)(1) if—

11 (1) the person is described in paragraph (1) of
12 subsection (d) of section 1086 of title 10, United
13 States Code;

14 (2) except for such paragraph, the person would
15 have been eligible for the health benefits under such
16 section; and

17 (3) at the time of the receipt of such benefits—

18 (A) the person satisfied the criteria speci-
19 fied in paragraph (2)(B) of such subsection (d);
20 and

21 (B) the person was unaware of the loss of
22 eligibility to receive the health benefits.

23 (c) PERIOD OF APPLICABILITY.—The authority pro-
24 vided under this section to waive collection of payments
25 and to continue benefits shall apply, under terms and con-

1 ditions prescribed by the Secretary of Defense, to health
2 benefits provided under section 1086 of title 10, United
3 States Code, during the period beginning on July 1, 1999,
4 and ending at the end of December 31, 2004.

5 (d) CONSULTATION WITH OTHER ADMINISTERING
6 SECRETARIES.—(1) The Secretary of Defense shall con-
7 sult with the other administering Secretaries in exercising
8 the authority provided in this section.

9 (2) In this subsection, the term “administering Secre-
10 taries” has the meaning given such term in section
11 1072(3) of title 10, United States Code.

12 **SEC. 720. VACCINE HEALTHCARE CENTERS NETWORK.**

13 Section 1110 of title 10, United States Code, is
14 amended by adding at the end the following:

15 “(c) VACCINE HEALTHCARE CENTERS NETWORK.—

16 (1) The Secretary shall carry out this section through the
17 Vaccine Healthcare Centers Network as established by the
18 Secretary in collaboration with the Director of the Centers
19 for Disease Control and Prevention.

20 “(2) In addition to conducting the activities described
21 in subsection (b), it shall be the purpose of the Vaccine
22 Healthcare Centers Network to improve—

23 “(A) the safety and quality of vaccine adminis-
24 tration for the protection of members of the armed
25 forces;

1 “(B) the submission of data to the Vaccine-re-
2 lated Adverse Events Reporting System to include
3 comprehensive content and follow-up data;

4 “(C) the access to clinical management services
5 to members of the armed forces who experience vac-
6 cine adverse events;

7 “(D) the knowledge and understanding by
8 members of the armed forces and vaccine-providers
9 of immunization benefits and risks.

10 “(E) networking between the Department of
11 Defense, the Department of Health and Human
12 Services, the Department of Veterans Affairs, and
13 private advocacy and coalition groups with regard to
14 immunization benefits and risks; and

15 “(F) clinical research on the safety and efficacy
16 of vaccines.

17 “(3) To achieve the purposes described in paragraph
18 (2), the Vaccine Healthcare Centers Network, in collabo-
19 ration with the medical departments of the armed forces,
20 shall carry out the following:

21 “(A)(i) Establish a network of centers of excel-
22 lence in clinical immunization safety assessment that
23 provides for outreach, education, and confidential
24 consultative and direct patient care services for vac-
25 cine related adverse events prevention, diagnosis,

1 treatment and follow-up with respect to members of
2 the armed services.

3 “(ii) Such centers shall provide expert second
4 opinions for such members regarding medical exemp-
5 tions under this section and for additional care that
6 is not available at the local medical facilities of such
7 members.

8 “(B) Develop standardized educational outreach
9 activities to support the initial and ongoing provision
10 of training and education for providers and nursing
11 personnel who are engaged in delivering immuniza-
12 tion services to the members of the armed forces.

13 “(C) Develop a program for quality improve-
14 ment in the submission and understanding of data
15 that is provided to the Vaccine-related Adverse
16 Events Reporting System, particularly among pro-
17 viders and members of the armed forces.

18 “(D) Develop and standardize a quality im-
19 provement program for the Department of Defense
20 relating to immunization services.

21 “(E) Develop an effective network system, with
22 appropriate internal and external collaborative ef-
23 forts, to facilitate integration, educational outreach,
24 research, and clinical management of adverse vac-
25 cine events.

1 “(F) Provide education and advocacy for vac-
2 cine recipients to include access to vaccine safety
3 programs, medical exemptions, and quality treat-
4 ment.

5 “(G) Support clinical studies with respect to the
6 safety and efficacy of vaccines, including outcomes
7 studies on the implementation of recommendations
8 contained in the clinical guidelines for vaccine-re-
9 lated adverse events.

10 “(H) Develop implementation recommendations
11 for vaccine exemptions or alternative vaccine strate-
12 gies for members of the armed forces who have had
13 prior, or who are susceptible to, serious adverse
14 events, including those with genetic risk factors, and
15 the discovery of treatments for adverse events that
16 are most effective.

17 “(4) It is the sense of the Senate—

18 “(A) to recognize the important work being
19 done by the Vaccine Healthcare Center Network for
20 the members of the armed forces; and

21 “(B) that each of the military departments (as
22 defined in section 102 of title 5, United States
23 Code) is strongly encouraged to fund the Vaccine
24 Healthcare Center Network.”.

1 **SEC. 721. USE OF DEPARTMENT OF DEFENSE FUNDS FOR**
 2 **ABORTIONS IN CASES OF RAPE AND INCEST.**

3 Section 1093(a) of title 10, United States Code, is
 4 amended by inserting before the period at the end the fol-
 5 lowing: “ or in a case in which the pregnancy is the result
 6 of an act of rape or incest”.

7 **TITLE VIII—ACQUISITION POL-**
 8 **ICY, ACQUISITION MANAGE-**
 9 **MENT, AND RELATED MAT-**
 10 **TERS**

11 **Subtitle A—Acquisition Policy and**
 12 **Management**

13 **SEC. 801. RESPONSIBILITIES OF ACQUISITION EXECUTIVES**
 14 **AND CHIEF INFORMATION OFFICERS UNDER**
 15 **THE CLINGER-COHEN ACT.**

16 (a) ACQUISITIONS OF INFORMATION TECHNOLOGY
 17 EQUIPMENT INTEGRAL TO A WEAPON OR WEAPON SYS-
 18 TEM.—(1) Chapter 131 of title 10, United States Code,
 19 is amended by inserting after section 2223 the following:
 20 **“§ 2223a. Acquisition of information technology**
 21 **equipment integral to a weapon or a**
 22 **weapon system**

23 “(a) RESPONSIBILITIES OF ACQUISITION EXECU-
 24 TIVES.—The acquisition executive of each military depart-
 25 ment shall be responsible for ensuring that, with regard

1 to a weapon or weapon system acquired or to be acquired
2 by or for that military department—

3 “(1) the acquisition of information technology
4 equipment that is integral to the weapon or a weap-
5 on system is conducted in a manner that is con-
6 sistent with the capital planning, investment control,
7 and performance and results-based management
8 processes and requirements provided under sections
9 11302, 11303, 11312, and 11313 of title 40, to the
10 extent that such processes requirements are applica-
11 ble to the acquisition of such equipment;

12 “(2) issues of spectrum availability, interoper-
13 ability, and information security are appropriately
14 addressed in the development of the weapon or
15 weapon system; and

16 “(3) in the case of information technology
17 equipment that is to be incorporated into a weapon
18 or a weapon system under a major defense acquisi-
19 tion program, the information technology equipment
20 is incorporated in a manner that is consistent
21 with—

22 “(A) the planned approach to applying cer-
23 tain provisions of law to major defense acquisi-
24 tion programs following the evolutionary acqui-
25 sition process that the Secretary of Defense re-

1 ported to Congress under section 802 of the
2 Bob Stump National Defense Authorization Act
3 for Fiscal Year 2003 (Public Law 107–314;
4 116 Stat. 2602);

5 “(B) the acquisition policies that apply to
6 spiral development programs under section 803
7 of such Act (116 Stat. 2603; 10 U.S.C. 2430
8 note); and

9 “(C) the software acquisition processes of
10 the military department or Defense Agency con-
11 cerned under section 804 of such Act (116
12 Stat. 2604; 10 U.S.C. 2430 note).

13 “(b) BOARD OF SENIOR ACQUISITION OFFICIALS.—
14 (1) The Secretary of Defense shall establish a board of
15 senior acquisition officials to develop policy and provide
16 oversight on the implementation of the requirements of
17 this section and chapter 113 of title 40 in procurements
18 of information technology equipment that is integral to a
19 weapon or a weapon system.

20 “(2) The board shall be composed of the following
21 officials:

22 “(A) The Under Secretary of Defense for Ac-
23 quisition, Technology, and Logistics, who shall be
24 the Chairman.

1 “(B) The acquisition executives of the military
2 departments.

3 “(C) The Chief Information Officer of the De-
4 partment of Defense.

5 “(3) Any question regarding whether information
6 technology equipment is integral to a weapon or weapon
7 system shall be resolved by the board in accordance with
8 policies established by the board.

9 “(c) INAPPLICABILITY OF OTHER LAWS.—The fol-
10 lowing provisions of law do not apply to information tech-
11 nology equipment that is integral to a weapon or a weapon
12 system:

13 “(1) Section 11315 of title 40.

14 “(2) The policies and procedures established
15 under section 11316 of title 40.

16 “(3) Subsections (d) and (e) of section 811 of
17 the Floyd D. Spence National Defense Authorization
18 Act for Fiscal Year 2001 (as enacted into law by
19 Public Law 106–398; 114 Stat. 1654A–211), and
20 the requirements and prohibitions that are imposed
21 by Department of Defense Directive 5000.1 pursu-
22 ant to subsections (b) and (c) of such section.

23 “(4) Section 351 of the Bob Stump National
24 Defense Authorization Act for Fiscal Year 2003

1 (Public Law 107–314; 116 Stat. 2516; 10 U.S.C.
2 221 note).

3 “(d) DEFINITIONS.—In this section:

4 “(1) The term ‘acquisition executive’, with re-
5 spect to a military department, means the official
6 who is designated as the senior procurement execu-
7 tive of the military department under section 16(3)
8 of the Office of Federal Procurement Policy Act (41
9 U.S.C. 414(3)).

10 “(2) The term ‘information technology’ has the
11 meaning given such term in section 11101 of title
12 40.

13 “(3) The term ‘major defense acquisition pro-
14 gram’ has the meaning given such term in section
15 2430 of this title.”.

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

“2223a. Acquisition of information technology equipment integral to a weapon
or a weapon system.”.

19 (b) CONFORMING AMENDMENTS.—Section 2223 of
20 such title is amended—

21 (1) by redesignating subsection (c) as sub-
22 section (d); and

23 (2) by inserting after subsection (b) the fol-
24 lowing new subsection (c):

1 “(c) EQUIPMENT INTEGRAL TO A WEAPON OR WEAP-
2 ON SYSTEM.—(1) In the case of information technology
3 equipment that is integral to a weapon or weapon system
4 acquired or to be acquired by or for a military department,
5 the responsibilities under this section shall be performed
6 by the acquisition executive of that military department
7 pursuant to the guidance and oversight of the board of
8 senior acquisition officials established under section
9 2223a(b) of this title.

10 “(2) In this subsection, the term ‘acquisition execu-
11 tive’ has the meaning given said term in section 2223a(d)
12 of this title.”.

13 **SEC. 802. SOFTWARE-RELATED PROGRAM COSTS UNDER**
14 **MAJOR DEFENSE ACQUISITION PROGRAMS.**

15 (a) CONTENT OF QUARTERLY UNIT COST RE-
16 PORT.—Subsection (b) of section 2433 of title 10, United
17 States Code, is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(5) Any significant changes in the total pro-
20 gram cost for development and procurement of the
21 software component of the program, schedule mile-
22 stones for the software component of the program,
23 or expected performance for the software component
24 of the program that are known, expected, or antici-
25 pated by the program manager.”.

1 (b) CONTENT OF SELECTED ACQUISITION RE-
2 PORT.—(1) Subsection (g)(1) of such section is amended
3 by adding at the end the following new subparagraph:

4 “(Q) In any case in which one or more prob-
5 lems with the software component of the program
6 significantly contributed to the increase in program
7 unit costs, the action taken and proposed to be
8 taken to solve such problems.”.

9 (2) Section 2432(e) of title 10, United States Code,
10 is amended—

11 (A) by redesignating paragraphs (7), (8), and
12 (9), as paragraphs (8), (9) and (10), respectively;
13 and

14 (B) by inserting after paragraph (6) the fol-
15 lowing new paragraph (7):

16 “(7) The reasons for any significant changes
17 (from the previous Selected Acquisition Report) in
18 the total program cost for development and procure-
19 ment of the software component of the program,
20 schedule milestones for the software component of
21 the program, or expected performance for the soft-
22 ware component of the program that are known, ex-
23 pected, or anticipated by the program manager.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on October 1, 2004, and shall

1 apply with respect to reports due to be submitted to Con-
2 gress on or after such date.

3 **SEC. 803. INTERNAL CONTROLS FOR DEPARTMENT OF DE-**
4 **FENSE PURCHASES THROUGH GSA CLIENT**
5 **SUPPORT CENTERS.**

6 (a) LIMITATION.—No official of the Department of
7 Defense may place an order for, make a purchase of, or
8 otherwise procure property or services in an amount in
9 excess of \$100,000 through any particular GSA Client
10 Support Center until the Inspector General of the Depart-
11 ment of Defense has, after the date of the enactment of
12 this Act—

13 (1) reviewed the policies, procedures, and inter-
14 nal controls of such Client Support Center in con-
15 sultation with the Inspector General of the General
16 Services Administration; and

17 (2) certified in writing to the Secretary of De-
18 fense and the Administrator of General Services that
19 such policies, procedures, and internal controls are
20 adequate to ensure the compliance of such Client
21 Support Center with the requirements of law and
22 regulations that are applicable to orders, purchases,
23 and other procurements of property and services.

24 (b) GSA CLIENT SUPPORT CENTER DEFINED.—In
25 this section, the term “GSA Client Support Center”

1 means a Client Support Center of the Federal Technology
2 Service of the General Services Administration.

3 (c) EFFECTIVE DATE AND APPLICABILITY.—This
4 section shall take effect on the date of the enactment of
5 this Act and shall apply with respect to orders, purchases,
6 and other procurements that are initiated by the Depart-
7 ment of Defense with a GSA Client Support Center on
8 or after such date.

9 **SEC. 804. DEFENSE COMMERCIAL SATELLITE SERVICES**
10 **PROCUREMENT PROCESS.**

11 (a) REQUIREMENT FOR DETERMINATION.—The Sec-
12 retary of Defense shall review alternative mechanisms for
13 procuring commercial satellite services and provide guid-
14 ance to the Director of the Defense Information Systems
15 Agency and the Secretaries of the military departments
16 on how such procurements should be conducted. The alter-
17 native procurement mechanisms reviewed by the Secretary
18 of Defense shall, at a minimum, include the following:

19 (1) Procurement under indefinite delivery, in-
20 definite quantity contracts of the Federal Tech-
21 nology Service of the General Services Administra-
22 tion.

23 (2) Procurement directly from commercial
24 sources that are qualified as described in subsection
25 (b), using full and open competition (as defined in

1 section 4(6) of the Office of Federal Procurement
2 Policy Act (41 U.S.C. 403(6))).

3 (3) Procurement by any other means that has
4 been used by the Director of the Defense Informa-
5 tion Systems Agency or the Secretary of a military
6 department to enter into a contract for the procure-
7 ment of commercial satellite services that is in force
8 on the date of the enactment of this Act.

9 (b) QUALIFIED SOURCES.—A source of commercial
10 satellite services referred to in paragraph (2) of subsection
11 (a) is a qualified source if the source is incorporated under
12 the laws of a State of the United States and is either—

13 (1) a source of commercial satellite services
14 under a Federal Technology Service contract for the
15 procurement of commercial satellite services de-
16 scribed in paragraph (1) of such subsection that is
17 in force on the date of the enactment of this Act;
18 or

19 (2) a source of commercial satellite services
20 that meets qualification requirements (as defined in
21 section 2319 of title 10, United States Code, and es-
22 tablished in accordance with that section) to enter
23 into a Federal Technology Service contract for the
24 procurement of commercial satellite services.

1 (c) REPORT.—Not later than April 30, 2005, the Sec-
2 retary of Defense shall submit to Congress a report setting
3 forth the conclusions resulting from the Secretary’s review
4 under subsection (a). The report shall include—

5 (1) the guidance provided under such sub-
6 section; and

7 (2) a discussion of the rationale for that guid-
8 ance.

9 **SEC. 805. REVISION AND EXTENSION OF AUTHORITY FOR**
10 **ADVISORY PANEL ON REVIEW OF GOVERN-**
11 **MENT PROCUREMENT LAWS AND REGULA-**
12 **TIONS.**

13 (a) RELATIONSHIP OF RECOMMENDATIONS TO
14 SMALL BUSINESSES.—Section 1423 of the National De-
15 fense Authorization Act for Fiscal Year 2004 (Public Law
16 106–136; 117 Stat. 1669; 41 U.S.C. 405 note) is
17 amended—

18 (1) by redesignating subsection (d) as sub-
19 section (e); and

20 (2) by inserting after subsection (e) the fol-
21 lowing new subsection (d):

22 “(d) ISSUES RELATING TO SMALL BUSINESSES.—In
23 developing recommendations under subsection (c)(2), the
24 panel shall—

1 “(1) consider the effects of its recommendations
2 on small business concerns; and

3 “(2) include any recommended modifications of
4 laws, regulations, and policies that the panel con-
5 siders necessary to enhance and ensure competition
6 in contracting that affords small business concerns
7 meaningful opportunity to participate in Federal
8 Government contracts.”.

9 (b) REVISION AND EXTENSION OF REPORTING RE-
10 QUIREMENT.—Section 1423(d) of the National Defense
11 Authorization Act for Fiscal Year 2004 (Public Law 108–
12 136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

13 (1) by striking “one year after the establish-
14 ment of the panel” and inserting “one year after the
15 date of the enactment of the National Defense Au-
16 thorization Act for Fiscal Year 2005”;

17 (2) by striking “Services and” both places it
18 appears and inserting “Services,”;

19 (3) by inserting “, and Small Business” after
20 “Government Reform”; and

21 (4) by inserting “, and Small Business and En-
22 trepreneurship” after “Governmental Affairs”.

1 **Subtitle B—General Contracting**
2 **Authorities, Procedures, and**
3 **Limitations, and Other Matters**

4 **SEC. 811. INCREASED THRESHOLDS FOR APPLICABILITY**
5 **OF CERTAIN REQUIREMENTS.**

6 (a) SENIOR PROCUREMENT EXECUTIVE APPROVAL
7 OF USE OF PROCEDURES OTHER THAN COMPETITIVE
8 PROCEDURES.—Section 2304(f)(1)(B) of title 10, United
9 States Code, is amended by striking “\$50,000,000” both
10 places it appears and inserting “\$75,000,000”.

11 (b) INFORMATION ON SUBCONTRACTING AUTHORITY
12 OF DEFENSE CONTRACTOR PERSONNEL.—Section
13 2416(d) of such title is amended by striking “\$500,000”
14 and inserting “\$1,000,000”.

15 **SEC. 812. PERIOD FOR MULTIYEAR TASK AND DELIVERY**
16 **ORDER CONTRACTS.**

17 (a) REVISED MAXIMUM PERIOD.—Section 2304a(f)
18 of title 10, United States Code, is amended by striking
19 “a total period of not more than five years.” and inserting
20 “any period up to five years and may extend the contract
21 period for one or more successive periods pursuant to an
22 option provided in the contract or a modification of the
23 contract. The total contract period as extended may not
24 exceed eight years unless such head of an agency person-

1 ally determines in writing that exceptional circumstances
2 necessitate a longer contract period.”.

3 (b) ANNUAL REPORT.—Not later than 60 days after
4 the end of each of fiscal years 2005 through 2009, the
5 Secretary of Defense shall submit to Congress a report
6 setting forth each extension of a contract period to a total
7 of more than eight years that was granted for task and
8 delivery order contracts of the Department of Defense
9 during such fiscal year under section 2304a(f) of title 10,
10 United States Code. The report shall include, with respect
11 to each such contract period extension—

12 (1) a discussion of the exceptional cir-
13 cumstances on which the extension was based; and

14 (2) the justification for the determination of ex-
15 ceptional circumstances.

16 **SEC. 813. SUBMISSION OF COST OR PRICING DATA ON NON-**
17 **COMMERCIAL MODIFICATIONS OF COMMER-**
18 **CIAL ITEMS.**

19 (a) INAPPLICABILITY OF COMMERCIAL ITEMS EX-
20 CEPTION TO NONCOMMERCIAL MODIFICATIONS OF COM-
21 MERCIAL ITEMS.—Subsection (b) of section 2306a of title
22 10, United States Code, is amended by adding at the end
23 the following new paragraph:

24 “(3) NONCOMMERCIAL MODIFICATIONS OF COM-
25 MERCIAL ITEMS.—(A) The exception in paragraph

1 (1)(B) does not apply to cost or pricing data on non-
2 commercial modifications of a commercial item that
3 are expected to cost, in the aggregate, more than
4 \$500,000.

5 “(B) In this paragraph, the term ‘noncommer-
6 cial modification’, with respect to a commercial item,
7 means a modification of such item that is not a
8 modification described in section 4(12)(C)(i) of the
9 Office of Federal Procurement Policy Act (41 U.S.C.
10 403(12)(C)(i)).

11 “(C) Nothing in subparagraph (A) shall be
12 construed—

13 “(i) to limit the applicability of the excep-
14 tion in subparagraph (A) or (C) of paragraph
15 (1) to cost or pricing data on a noncommercial
16 modification of a commercial item; or

17 “(ii) to require the submission of cost or
18 pricing data on any aspect of an acquisition of
19 a commercial item other than the cost and pric-
20 ing of noncommercial modifications of such
21 item.”.

22 (b) EFFECTIVE DATE AND APPLICABILITY.—Para-
23 graph (3) of section 2306a of title 10, United States Code
24 (as added by subsection (a)), shall take effect on January
25 1, 2005, and shall apply with respect to offers submitted,

1 and to modifications of contracts or subcontracts made,
2 on or after that date.

3 **SEC. 814. DELEGATIONS OF AUTHORITY TO MAKE DETER-**
4 **MINATIONS RELATING TO PAYMENT OF DE-**
5 **FENSE CONTRACTORS FOR BUSINESS RE-**
6 **STRUCTURING COSTS.**

7 Section 2325(a)(2) of title 10, United States Code,
8 is amended—

9 (1) by striking “paragraph (1) to an official”
10 and all that follows and inserting “paragraph (1),
11 with respect to a business combination, to an official
12 of the Department of Defense—”; and

13 (2) by adding at the end the following:

14 “(A) below the level of an Assistant Secretary
15 of Defense for cases in which the amount of restruc-
16 turing costs is expected to exceed \$25,000,000 over
17 a 5-year period; or

18 “(B) below the level of the Director of the De-
19 fense Contract Management Agency for all other
20 cases.”.

1 **SEC. 815. LIMITATION REGARDING SERVICE CHARGES IM-**
2 **POSED FOR DEFENSE PROCUREMENTS MADE**
3 **THROUGH CONTRACTS OF OTHER AGENCIES.**

4 (a) LIMITATION.—(1) Chapter 141 of title 10, United
5 States Code, is amended by inserting after section 2382
6 the following new section 2383:

7 **“§ 2383. Procurements through contracts of other**
8 **agencies: service charges**

9 “(a) LIMITATION.—The head of an agency may not
10 procure goods or services (under section 1535 of title 31,
11 pursuant to a designation under section 11302(e) of title
12 40, or otherwise) through a contract entered into by an
13 agency outside the Department of Defense if the amount
14 charged such head of an agency by the contracting agency
15 for the goods or services includes a service charge in a
16 total amount that exceeds one percent of the amount
17 charged by the contractor for such goods or services under
18 the contract.

19 “(b) WAIVER AUTHORITY.—(1) The appropriate offi-
20 cial of the Department of Defense may waive the limita-
21 tion in subsection (a) in the case of any procurement for
22 which that official determines that it is in the national
23 security interests of the United States to do so.

24 “(2) The appropriate official for exercise of the waiv-
25 er authority under paragraph (1) is as follows:

1 “(A) In the case of a procurement by a Defense
2 Agency or Department of Defense Field Activity, the
3 Secretary of Defense.

4 “(B) In the case of a procurement for a mili-
5 tary department, the Secretary of that military de-
6 partment.

7 “(3)(A) The Secretary of Defense may not delegate
8 the authority under paragraph (1) to any person other
9 than the Deputy Secretary of Defense or the Under Sec-
10 retary of Defense for Acquisition, Technology, and Logis-
11 tics.

12 “(B) The Secretary of a military department may not
13 delegate the authority under paragraph (1) to any person
14 other than the acquisition executive of that military de-
15 partment.

16 “(c) INAPPLICABILITY TO CONTRACTS FOR CERTAIN
17 SERVICES.—This section does not apply to procurements
18 of the following services:

19 “(1) Printing, binding, or blank-book work to
20 which section 502 of title 44 applies.

21 “(2) Services available under programs pursu-
22 ant to section 103 of the Library of Congress Fiscal
23 Operations Improvement Act of 2000 (Public Law
24 106–481; 114 Stat. 2187; 2 U.S.C. 182c).

1 “(d) INAPPLICABILITY TO COAST GUARD AND
2 NASA.—This section does not apply to the Coast Guard
3 when it is not operating as a service in the Navy or to
4 the National Aeronautics and Space Administration.

5 “(e) DEFINITIONS.—In this section:

6 “(1) The term ‘head of an agency’ has the
7 meaning given such term in section 2302 of this
8 title.

9 “(2) The term ‘acquisition executive’, with re-
10 spect to a military department, means the official
11 who is designated as the senior procurement execu-
12 tive of that military department under section 16(3)
13 of the Office of Federal Procurement Policy Act (41
14 U.S.C. 414(3)).”.

15 (2) The table of sections at the beginning of such
16 chapter is amended by inserting after the item relating
17 to section 2382 the following new item:

“2383. Procurements through contracts of other agencies: service charges.”.

18 (b) EFFECTIVE DATE AND APPLICABILITY.—Section
19 2383 of title 10, United States Code, shall take effect on
20 October 1, 2004, and shall apply with respect to orders
21 for goods or services that are issued by the head of an
22 agency (as defined in section 2302 of such title) on or
23 after such date.

1 **SEC. 816. SENSE OF THE SENATE ON EFFECTS OF COST IN-**
2 **FLATION ON THE VALUE RANGE OF THE CON-**
3 **TRACTS TO WHICH A SMALL BUSINESS CON-**
4 **TRACT RESERVATION APPLIES.**

5 (a) SENSE OF THE SENATE.—It is the sense of the
6 Senate that—

7 (1) in the administration of the requirement for
8 reservation of contracts for small businesses under
9 subsection (j) of section 15 of the Small Business
10 Act (15 U.S.C. 644), the maximum amount in the
11 contract value range provided under that subsection
12 should be treated as being adjusted to the same
13 amount to which the simplified acquisition threshold
14 is increased whenever such threshold is increased
15 under law; and

16 (2) the Administrator for Federal Procurement
17 Policy, in consultation with the Federal Acquisition
18 Regulatory Council, should ensure that appropriate
19 governmentwide policies and procedures are in
20 place—

21 (A) to monitor socioeconomic data con-
22 cerning purchases made by means of purchase
23 cards or credit cards issued for use in trans-
24 actions on behalf of the Federal Government;
25 and

1 (B) to encourage the placement of a fair
 2 portion of such purchases with small businesses
 3 consistent with governmentwide goals for small
 4 business prime contracting established under
 5 section 15(g) of the Small Business Act (15
 6 U.S.C. 644(g)).

7 (b) SIMPLIFIED ACQUISITION THRESHOLD DE-
 8 FINED.—In this section, the term “simplified acquisition
 9 threshold” has the meaning given such term in section
 10 4(11) of the Office of Federal Procurement Policy Act (41
 11 U.S.C. 403(11)).

12 **Subtitle C—Extensions of** 13 **Temporary Program Authorities**

14 **SEC. 821. EXTENSION OF CONTRACT GOAL FOR SMALL DIS-** 15 **ADVANTAGED BUSINESS AND CERTAIN INSTI-** 16 **TUTIONS OF HIGHER EDUCATION.**

17 Section 2323(k) of title 10, United States Code, is
 18 amended by striking “2006” both places it appears and
 19 inserting “2009”.

20 **SEC. 822. EXTENSION OF MENTOR-PROTEGE PROGRAM.**

21 Section 831 of the National Defense Authorization
 22 Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C.
 23 2302 note) is amended—

24 (1) in subsection (j)—

1 (A) in paragraph (1), by striking “Sep-
2 tember 30, 2005” and inserting “September 30,
3 2010”; and

4 (B) in paragraph (2), by striking “Sep-
5 tember 30, 2008” and inserting “September 30,
6 2013”; and

7 (2) in subsection (l)(3), by striking “2007” and
8 inserting “2012”.

9 **SEC. 823. EXTENSION OF TEST PROGRAM FOR NEGOTIA-**
10 **TION OF COMPREHENSIVE SMALL BUSINESS**
11 **SUBCONTRACTING PLANS.**

12 Section 834(e) of the National Defense Authorization
13 Act for Fiscal Years 1990 and 1991 (Public Law 101–
14 189; 15 U.S.C. 637 note) is amended by striking “Sep-
15 tember 30, 2005” and inserting “September 30, 2010”.

16 **SEC. 824. EXTENSION OF PILOT PROGRAM ON SALES OF**
17 **MANUFACTURED ARTICLES AND SERVICES**
18 **OF CERTAIN ARMY INDUSTRIAL FACILITIES.**

19 Section 141(a) of the National Defense Authorization
20 Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C.
21 4543 note) is amended by striking “through 2004” in the
22 first sentence and inserting “through 2009”.

1 **Subtitle D—Industrial Base**
2 **Matters**

3 **SEC. 831. COMMISSION ON THE FUTURE OF THE NATIONAL**
4 **TECHNOLOGY AND INDUSTRIAL BASE.**

5 (a) **ESTABLISHMENT.**—There is established a com-
6 mission to be known as the Commission on the Future
7 of the National Technology and Industrial Base (hereafter
8 in this section referred to as the “Commission”).

9 (b) **MEMBERSHIP.**—(1) The Commission shall be
10 composed of 12 members appointed by the President.

11 (2) The members of the Commission shall include—

12 (A) persons with extensive experience and na-
13 tional reputations for expertise in the defense indus-
14 try, commercial industries that support the defense
15 industry, and the economics, finance, national secu-
16 rity, international trade, or foreign policy areas; and

17 (B) persons who are representative of labor or-
18 ganizations associated with the defense industry,
19 and persons who are representative of small business
20 concerns or organizations of small business concerns
21 that are involved in Department of Defense con-
22 tracting and other Federal Government contracting.

23 (3) The appointment of the members of the Commis-
24 sion under this subsection shall be made not later than
25 March 1, 2005.

1 (4) Members shall be appointed for the life of the
2 Commission. A vacancy in the Commission shall not affect
3 its powers, but shall be filled in the same manner in which
4 the original appointment was made.

5 (5) The President shall designate one member of the
6 Commission to serve as the Chairman of the Commission.

7 (c) MEETINGS.—(1) The Commission shall meet at
8 the call of the Chairman.

9 (2) A majority of the members of the Commission
10 shall constitute a quorum, but a lesser number may hold
11 hearings.

12 (d) DUTIES.—(1) The Commission shall—

13 (A) study the issues associated with the future
14 of the national technology and industrial base in the
15 global economy, particularly with respect to its effect
16 on United States national security; and

17 (B) assess the future ability of the national
18 technology and industrial base to attain the national
19 security objectives set forth in section 2501 of title
20 10, United States Code.

21 (2) In carrying out the study and assessment under
22 paragraph (1), the Commission shall consider the fol-
23 lowing matters:

24 (A) Existing and projected future capabilities of
25 the national technology and industrial base.

1 (B) The impact on the national technology and
2 industrial base of civil-military integration and the
3 growing dependence of the Department of Defense
4 on the commercial market for defense products and
5 services.

6 (C) Any current or projected shortages of a
7 critical technology (as defined in section 2500(6) of
8 title 10, United States Code), or the raw materials
9 necessary for the production of such technology, that
10 could adversely affect the national security of the
11 United States.

12 (D) The effects of domestic source restrictions
13 on the strength of the national technology and in-
14 dustrial base.

15 (E) The effects of the policies and practices of
16 United States allies and trading partners on the na-
17 tional technology and industrial base.

18 (F) The effects on the national technology and
19 industrial base of laws and regulations related to
20 international trade and the export of defense tech-
21 nologies and dual-use technologies.

22 (G) The adequacy of programs that support
23 science and engineering education, including pro-
24 grams that support defense science and engineering
25 efforts at institutions of higher learning, with re-

1 spect to meeting the needs of the national tech-
2 nology and industrial base.

3 (H) The implementation of policies and plan-
4 ning required under subchapter II of chapter 148 of
5 title 10, United States Code, and other provisions of
6 law designed to support the national technology and
7 industrial base.

8 (I) The role of the Manufacturing Technology
9 program, other Department of Defense research and
10 development programs, and the utilization of the au-
11 thorities of the Defense Production Act of 1950 to
12 provide transformational breakthroughs in advanced
13 manufacturing technologies and processes that en-
14 sure the strength and productivity of the national
15 technology and industrial base.

16 (J) The role of small business concerns in
17 strengthening the national technology and industrial
18 base.

19 (e) REPORT.—Not later than March 1, 2007, the
20 Commission shall submit a report on its activities to the
21 President and Congress. The report shall include the fol-
22 lowing matters:

23 (1) The findings and conclusions of the Com-
24 mission.

1 (2) The recommendations of the Commission
2 for actions by Federal Government officials to sup-
3 port the maintenance of a robust national technology
4 and industrial base in the 21st century.

5 (3) The recommendations of the Commission
6 for addressing shortages in critical technologies, and
7 shortages of raw materials necessary for the produc-
8 tion of critical technologies, that could adversely af-
9 fect the national security of the United States.

10 (4) Any recommendations for legislation or
11 changes in regulations to support the implementa-
12 tion of the findings of the Commission.

13 (5) A discussion of appropriate measures to im-
14 plement the recommendations of the Commission.

15 (f) ADMINISTRATIVE REQUIREMENTS AND AUTHORI-
16 TIES.—(1) The Director of the Office of Management and
17 Budget shall ensure that the Commission is provided such
18 administrative services, facilities, staff, and other support
19 services as may be necessary for the Commission to carry
20 out its duties. Expenses of the Commission shall be paid
21 out of funds available to the Director.

22 (2) The Commission may hold such hearings, sit and
23 act at such times and places, take such testimony, and
24 receive such evidence as the Commission considers advis-
25 able to carry out the purposes of this section.

1 (3) The Commission may secure directly from any
2 Federal department or agency such information as the
3 commission considers necessary to carry out the provisions
4 of this section. Upon a request of the Chairman of the
5 Commission, the head of such department or agency shall
6 furnish such information to the Commission.

7 (4) The Commission may use the United States mails
8 in the same manner and under the same conditions as
9 other departments and agencies of the Federal Govern-
10 ment.

11 (g) PERSONNEL MATTERS.—(1) Members of the
12 Commission shall serve without compensation for their
13 service on the Commission, except that each member of
14 the Commission who is not an officer or employee of the
15 United States shall be allowed travel expenses, including
16 per diem in lieu of subsistence, at rates authorized for em-
17 ployees of agencies under subchapter I of chapter 57 of
18 title 5, United States Code, while away from their homes
19 or regular places of business in the performance of services
20 for the Commission.

21 (2) Section 3161 of title 5, United States Code, shall
22 apply to the Commission, except that—

23 (A) members of the Commission shall not be
24 entitled to pay for services under subsection (d) of
25 such section; and

1 (B) subsection (b)(2) of such section shall not
2 apply to the employees of the Commission.

3 (h) APPLICABILITY OF FEDERAL ADVISORY COM-
4 MITTEE ACT.—The Federal Advisory Committee Act (5
5 U.S.C. App.) shall not apply to the Commission.

6 (i) TERMINATION.—The Commission shall terminate
7 30 days after the date on which the Commission submits
8 its report under subsection (e).

9 (j) DEFINITION OF NATIONAL TECHNOLOGY AND IN-
10 DUSTRIAL BASE.—In this section, the term “national
11 technology and industrial base” has the meaning given
12 such term in section 2500 of title 10, United States Code.

13 **SEC. 832. WAIVER AUTHORITY FOR DOMESTIC SOURCE OR**
14 **CONTENT REQUIREMENTS.**

15 (a) AUTHORITY.—Subchapter V of chapter 148 of
16 title 10, United States Code, is amended by adding at the
17 end the following new section:

18 **“§ 2539c. Waiver of domestic source or content re-**
19 **quirements**

20 “(a) AUTHORITY.—Except as provided in subsection
21 (f), the Secretary of Defense may waive the application
22 of any domestic source requirement or domestic content
23 requirement referred to in subsection (b) and thereby au-
24 thorize the procurement of items that are grown, repro-
25 cessed, reused, produced, or manufactured—

1 “(1) in a foreign country that has a Declaration
2 of Principles with the United States;

3 “(2) in a foreign country that has a Declaration
4 of Principles with the United States substantially
5 from components and materials grown, reprocessed,
6 reused, produced, or manufactured in the United
7 States or any foreign country that has a Declaration
8 of Principles with the United States; or

9 “(3) in the United States substantially from
10 components and materials grown, reprocessed, re-
11 used, produced, or manufactured in the United
12 States or any foreign country that has a Declaration
13 of Principles with the United States.

14 “(b) COVERED REQUIREMENTS.—For purposes of
15 this section:

16 “(1) A domestic source requirement is any re-
17 quirement under law that the Department of De-
18 fense satisfy its requirements for an item by pro-
19 curing an item that is grown, reprocessed, reused,
20 produced, or manufactured in the United States or
21 by a manufacturer that is a part of the national
22 technology and industrial base (as defined in section
23 2500(1) of this title).

24 “(2) A domestic content requirement is any re-
25 quirement under law that the Department of De-

1 fense satisfy its requirements for an item by pro-
2 curing an item produced or manufactured partly or
3 wholly from components and materials grown, re-
4 processed, reused, produced, or manufactured in the
5 United States.

6 “(c) APPLICABILITY.—The authority of the Secretary
7 to waive the application of a domestic source or content
8 requirements under subsection (a) applies to the procure-
9 ment of items for which the Secretary of Defense deter-
10 mines that—

11 “(1) application of the requirement would im-
12 pede the reciprocal procurement of defense items
13 under a Declaration of Principles with the United
14 States; and

15 “(2) such country does not discriminate against
16 defense items produced in the United States to a
17 greater degree than the United States discriminates
18 against defense items produced in that country.

19 “(d) LIMITATION ON DELEGATION.—The authority
20 of the Secretary to waive the application of domestic
21 source or content requirements under subsection (a) may
22 not be delegated to any officer or employee other than the
23 Under Secretary of Defense for Acquisition, Technology
24 and Logistics.

1 “(e) CONSULTATIONS.—The Secretary may grant a
2 waiver of the application of a domestic source or content
3 requirement under subsection (a) only after consultation
4 with the United States Trade Representative, the Sec-
5 retary of Commerce, and the Secretary of State.

6 “(f) LAWS NOT WAIVABLE.—The Secretary of De-
7 fense may not exercise the authority under subsection (a)
8 to waive any domestic source or content requirement con-
9 tained in any of the following laws:

10 “(1) The Small Business Act (15 U.S.C. 631 et
11 seq.).

12 “(2) The Javits-Wagner-O’Day Act (41 U.S.C.
13 46 et seq.).

14 “(3) Sections 7309 and 7310 of this title.

15 “(4) Section 2533a of this title.

16 “(g) RELATIONSHIP TO OTHER WAIVER AUTHOR-
17 ITY.—The authority under subsection (a) to waive a do-
18 mestic source requirement or domestic content require-
19 ment is in addition to any other authority to waive such
20 requirement.

21 “(h) CONSTRUCTION WITH RESPECT TO LATER EN-
22 ACTED LAWS.—This section may not be construed as
23 being inapplicable to a domestic source requirement or do-
24 mestic content requirement that is set forth in a law en-

1 acted after the enactment of this section solely on the
2 basis of the later enactment.

3 “(i) DECLARATION OF PRINCIPLES.—(1) In this sec-
4 tion, the term ‘Declaration of Principles’ means a written
5 understanding (including any Statement of Principles) be-
6 tween the Department of Defense and its counterpart in
7 a foreign country signifying a cooperative relationship be-
8 tween the Department and its counterpart to standardize
9 or make interoperable defense equipment used by the
10 armed forces and the armed forces of the foreign country
11 across a broad spectrum of defense activities, including—

12 “(A) harmonization of military requirements
13 and acquisition processes;

14 “(B) security of supply;

15 “(C) export procedures;

16 “(D) security of information;

17 “(E) ownership and corporate governance;

18 “(F) research and development;

19 “(G) flow of technical information; and

20 “(H) defense trade.

21 “(2) A Declaration of Principles is underpinned by
22 a memorandum of understanding or other agreement pro-
23 viding for the reciprocal procurement of defense items be-
24 tween the United States and the foreign country con-

1 cerned without unfair discrimination in accordance with
2 section 2531 of this title.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such subchapter is amended by insert-
5 ing after the item relating to section 2539b the following
6 new item:

“2539c. Waiver of domestic source or content requirements.”.

7 **SEC. 833. CONSISTENCY WITH UNITED STATES OBLIGA-**
8 **TIONS UNDER TRADE AGREEMENTS.**

9 No provision of this Act or any amendment made by
10 this Act shall apply to a procurement by or for the Depart-
11 ment of Defense to the extent that the Secretary of De-
12 fense, in consultation with the Secretary of Commerce, the
13 United States Trade Representative, and the Secretary of
14 State, determines that it is inconsistent with United
15 States obligations under a trade agreement.

16 **SEC. 834. REPEAL OF CERTAIN REQUIREMENTS AND LIM-**
17 **TATIONS RELATING TO THE DEFENSE INDUS-**
18 **TRIAL BASE.**

19 (a) ESSENTIAL ITEM IDENTIFICATION AND DOMES-
20 TIC PRODUCTION CAPABILITIES IMPROVEMENT.—Sec-
21 tions 812, 813, and 814 of the National Defense Author-
22 ization Act for Fiscal Year 2004 (Public Law 108–136;
23 117 Stat. 1542, 1543, 1545; 10 U.S.C. 2501 note) are
24 repealed.

1 (b) ELIMINATION OF UNRELIABLE SOURCE FOR
2 ITEMS AND COMPONENTS.—Section 821 of such Act (117
3 Stat. 1546; 10 U.S.C. 2534 note) is repealed.

4 **Subtitle E—Defense Acquisition**
5 **and Support Workforce**

6 **SEC. 841. LIMITATION AND REINVESTMENT AUTHORITY RE-**
7 **LATING TO REDUCTION OF THE DEFENSE AC-**
8 **QUISITION AND SUPPORT WORKFORCE.**

9 (a) LIMITATION.—Notwithstanding any other provi-
10 sion of law, the defense acquisition and support workforce
11 may not be reduced, during fiscal years 2005, 2006, and
12 2007, below the level of that workforce as of September
13 30, 2003, determined on the basis of full-time employee
14 equivalence, except as may be necessary to strengthen the
15 defense acquisition and support workforce in higher pri-
16 ority positions in accordance with this section.

17 (b) INCREASE AND REALIGNMENT OF WORK-
18 FORCE.—(1)(A) During fiscal years 2005, 2006, and
19 2007, the Secretary of Defense shall increase the number
20 of persons employed in the defense acquisition and support
21 workforce as follows:

22 (i) During fiscal year 2005, to 105 percent of
23 the baseline number (as defined in subparagraph
24 (B)).

1 (ii) During fiscal year 2006, to 110 percent of
2 the baseline number.

3 (iii) During fiscal year 2007, to 115 percent of
4 the baseline number.

5 (B) In this paragraph, the term “baseline number”,
6 with respect to persons employed in the defense acquisi-
7 tion and support workforce, means the number of persons
8 employed in such workforce as of September 30, 2003 (de-
9 termined on the basis of full-time employee equivalence).

10 (C) The Secretary of Defense may waive a require-
11 ment in subparagraph (A) and, subject to subsection (a),
12 employ in the defense acquisition and support workforce
13 a lesser number of employees if the Secretary determines
14 and certifies to the congressional defense committees that
15 the cost of increasing such workforce to the larger size
16 as required under that subparagraph would exceed the
17 savings to be derived from the additional oversight that
18 would be achieved by having a defense acquisition and
19 support workforce of such larger size.

20 (2) During fiscal years 2005, 2006, and 2007, the
21 Secretary of Defense may realign any part of the defense
22 acquisition and support workforce to support reinvestment
23 in other, higher priority positions in such workforce.

24 (c) HIGHER PRIORITY POSITIONS.—For the purposes
25 of this section, higher priority positions in the defense ac-

1 acquisition and support workforce include the following posi-
2 tions:

3 (1) Positions the responsibilities of which in-
4 clude drafting performance-based work statements
5 for services contracts and overseeing the perform-
6 ance of contracts awarded pursuant to such work
7 statements.

8 (2) Positions the responsibilities of which in-
9 clude conducting spending analyses, negotiating
10 company-wide pricing agreements, and taking other
11 measures to reduce contract costs.

12 (3) Positions the responsibilities of which in-
13 clude reviewing contractor quality control systems,
14 assessing and analyzing quality deficiency reports,
15 and taking other measures to improve product qual-
16 ity.

17 (4) Positions the responsibilities of which in-
18 clude effectively conducting public-private competi-
19 tions in accordance with Office of Management and
20 Budget Circular A-76.

21 (5) Any other positions in the defense acquisi-
22 tion and support workforce that the Secretary of De-
23 fense identifies as being higher priority positions
24 that are staffed at levels not likely to ensure efficient

1 and effective performance of all of the responsibil-
2 ities of those positions.

3 (d) STRATEGIC ASSESSMENT AND PLAN.—(1) The
4 Secretary of Defense shall—

5 (A) assess the extent to which the Department
6 of Defense can recruit, retain, train, and provide
7 professional development opportunities for acquisi-
8 tion professionals over the 10-fiscal year period be-
9 ginning with fiscal year 2005; and

10 (B) develop a human resources strategic plan
11 for the defense acquisition and support workforce
12 that includes objectives and planned actions for im-
13 proving the management of such workforce.

14 (2) The Secretary shall submit to Congress, not later
15 than April 1, 2005, a report on the progress made in—

16 (A) completing the assessment required under
17 paragraph (1); and

18 (B) completing and implementing the strategic
19 plan required under such paragraph.

20 (e) DEFENSE ACQUISITION AND SUPPORT WORK-
21 FORCE DEFINED.—In this section, the term “defense ac-
22 quisition and support workforce” means members of the
23 Armed Forces and civilian personnel who are assigned to,
24 or are employed in, an organization of the Department

1 of Defense that has acquisition as its predominant mis-
2 sion, as determined by the Secretary of Defense.

3 **SEC. 842. DEFENSE ACQUISITION WORKFORCE IMPROVE-**
4 **MENTS.**

5 (a) SELECTION CRITERIA FOR ACQUISITION CORPS
6 AND FOR CRITICAL ACQUISITION POSITIONS.—(1) Section
7 1732(b)(1)(A) of title 10, United States Code, is amended
8 by striking “within grade GS–13 or above of” and insert-
9 ing “for which the employee is being paid at a rate of
10 basic pay that equals or exceeds the minimum rate of basic
11 pay provided for grade GS–13 under”.

12 (2) Section 1733(b)(1)(A)(i) of such title is amended
13 by striking “in a position within grade GS–14 or above
14 of the General Schedule, or” and inserting “who is cur-
15 rently serving in a position for which the employee is being
16 paid at a rate of basic pay that equals or exceeds the min-
17 imum rate of basic pay provided for grade GS–14 under
18 the General Schedule or is required to be filled by an em-
19 ployee who is”.

20 (b) SCHOLARSHIP PROGRAM.—Section 1742 of such
21 title is amended—

22 (1) by inserting “(a) REQUIRED
23 PROGRAMS.—” before “The Secretary of Defense
24 shall conduct”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(b) SCHOLARSHIP PROGRAM REQUIREMENTS.—(1)
4 Each recipient of a scholarship under a program con-
5 ducted under subsection (a)(3) shall be required to sign
6 a written agreement that sets forth the terms and condi-
7 tions of the scholarship. The agreement shall include the
8 following:

9 “(A) Criteria for the recipient’s continued eligi-
10 bility for the scholarship.

11 “(B) The terms of any requirement for the re-
12 cipient to reimburse the United States for edu-
13 cational assistance provided under the scholarship
14 upon—

15 “(i) a failure by the recipient to satisfy the
16 criteria for continued eligibility for the scholar-
17 ship; or

18 “(ii) a termination of the recipient’s service
19 in the Department of Defense before the end of
20 any period of obligated service provided in the
21 agreement, as described in paragraph (2).

22 “(2) Subject to paragraph (3)(C), a recipient of a
23 scholarship under the program shall reimburse the United
24 States the total amount of educational assistance provided
25 to the recipient under the program if the recipient is vol-

1 untarily separated from service or involuntarily separated
2 for cause from the Department of Defense before the end
3 of any period for which the recipient has agreed, as a con-
4 dition of the scholarship, to continue in the service of the
5 Department of Defense in an acquisition position.

6 “(3)(A) If an employee fails to fulfill an agreement
7 to pay the Government any amount of educational assist-
8 ance provided to that person under the program, a sum
9 equal to such amount of the educational assistance is re-
10 coverable by the Government from the employee or his es-
11 tate by—

12 “(i) setoff against accrued pay, compensation,
13 amount of retirement credit, or other amount due
14 the employee from the Government; and

15 “(ii) such other method as is provided by law
16 for the recovery of amounts owing to the Govern-
17 ment.

18 “(B) An obligation to reimburse the United States
19 under an agreement entered into under this subsection is
20 for all purposes a debt owed to the United States.

21 “(C) The Secretary of Defense may waive in whole
22 or in part a reimbursement required under this subsection
23 or under an agreement entered into under this subsection
24 if the Secretary determines that the recovery would be

1 against equity and good conscience or would be contrary
2 to the best interests of the United States.

3 “(D) A discharge in bankruptcy under title 11 that
4 is entered less than five years after the termination of an
5 agreement entered into under this subsection does not dis-
6 charge a person executing the agreement from a debt aris-
7 ing under this subsection or such agreement.

8 “(4) Nothing in this subsection shall be considered
9 to require that a position be offered to a recipient of a
10 scholarship under the program after such recipient suc-
11 cessfully completes the course of education for which the
12 scholarship is granted. However, the agreement entered
13 into under this subsection with respect to such scholarship
14 shall be considered terminated if the recipient is not, with-
15 in the time specified in the agreement, offered a full-time
16 acquisition position in the Department of Defense that—

17 “(A) is commensurate with the recipient’s aca-
18 demic degree and experience; and

19 “(B) is—

20 “(i) in the excepted service, if the recipient
21 has not previously acquired competitive status,
22 with the right, after successful completion of
23 two years of service and such other require-
24 ments as the Office of Personnel Management
25 may prescribe, to be appointed to a position in

1 the competitive service, notwithstanding sub-
 2 chapter I of chapter 33 of title 5; or

3 “(ii) in the competitive service, if the re-
 4 cipient has previously acquired competitive sta-
 5 tus.”.

6 (c) **AUTHORITY TO ESTABLISH DIFFERENT MIN-**
 7 **IMUM REQUIREMENTS.**—(1) Section 1764(b) of such title
 8 is amended—

9 (A) by redesignating paragraph (5) as para-
 10 graph (6); and

11 (B) by inserting after paragraph (4) the fol-
 12 lowing new paragraph (5):

13 “(5) Deputy program manager.”.

14 (2) Paragraph (1) of such section is amended by
 15 striking “in paragraph (5)” and inserting “in paragraph
 16 (6)”.

17 **Subtitle F—Public-Private**
 18 **Competitions**

19 **SEC. 851. PUBLIC-PRIVATE COMPETITION FOR WORK PER-**
 20 **FORMED BY CIVILIAN EMPLOYEES OF THE**
 21 **DEPARTMENT OF DEFENSE.**

22 (a) **LIMITATION.**—Section 2461(b) of title 10, United
 23 States Code, is amended by adding at the end the fol-
 24 lowing new paragraph:

1 “(5)(A) Notwithstanding subsection (d), a function
2 of the Department of Defense performed by 10 or more
3 civilian employees may not be converted, in whole or in
4 part, to performance by a contractor unless the conversion
5 is based on the results of a public-private competition
6 process that—

7 “(i) formally compares the cost of civilian em-
8 ployee performance of that function with the costs of
9 performance by a contractor;

10 “(ii) creates an agency tender, including a most
11 efficient organization plan, in accordance with Office
12 of Management and Budget Circular A-76, as im-
13 plemented on May 29, 2003;

14 “(iii) requires continued performance of the
15 function by civilian employees unless the competitive
16 sourcing official concerned determines that, over all
17 performance periods stated in the solicitation of of-
18 fers for performance of the activity or function, the
19 cost of performance of the activity or function by a
20 contractor would be less costly to the Department of
21 Defense by an amount that equals or exceeds the
22 lesser of \$10,000,000 or 10 percent of the most effi-
23 cient organization’s personnel-related costs for per-
24 formance of that activity or function by Federal em-
25 ployees; and

1 “(iv) ensures that the public sector bid would
2 not be disadvantaged in the cost comparison process
3 by a proposal of an offeror to reduce costs for the
4 Department of Defense by not making an employer-
5 sponsored health insurance plan available to the
6 workers who are to be employed in the performance
7 of such function under a contract or by offering to
8 such workers an employer-sponsored health benefits
9 plan that requires the employer to contribute less to-
10 wards the premium or subscription share than that
11 which is paid by the Department of Defense for
12 health benefits for civilian employees under chapter
13 89 of title 5.

14 “(B) Any function that is performed by civilian em-
15 ployees of the Department of Defense and is proposed to
16 be reengineered, reorganized, modernized, upgraded, ex-
17 panded, or changed in order to become more efficient shall
18 not be considered a new requirement for the purpose of
19 the competition requirements in subparagraph (A) or the
20 requirements for public-private competition in Office of
21 Management and Budget Circular A-76.

22 “(C) A function performed by more than 10 Federal
23 Government employees may not be separated into separate
24 functions for the purposes of avoiding the competition re-
25 quirement in subparagraph (A) or the requirements for

1 public-private competition in Office of Management and
2 Budget Circular A-76.

3 “(D) The Secretary of Defense may waive the re-
4 quirement for a public-private competition under subpara-
5 graph (A) in specific instances if—

6 “(i) the written waiver is prepared by the Sec-
7 retary of Defense or the relevant Assistant Secretary
8 of Defense, Secretary of a military department, or
9 head of a Defense Agency;

10 “(ii) the written waiver is accompanied by a de-
11 tailed determination that national security interests
12 are so compelling as to preclude compliance with the
13 requirement for a public-private competition; and

14 “(iii) a copy of the waiver is published in the
15 Federal Register within 10 working days after the
16 date on which the waiver is granted, although use of
17 the waiver need not be delayed until its publica-
18 tion.”.

19 (b) INAPPLICABILITY TO BEST-VALUE SOURCE SE-
20 LECTION PILOT PROGRAM.—(1) Paragraph (5) of section
21 2461(b) of title 10, United States Code, as added by sub-
22 section (a), shall not apply with respect to the pilot pro-
23 gram for best-value source selection for performance of in-
24 formation technology services authorized by section 336
25 of the National Defense Authorization Act for Fiscal Year

1 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C.
2 2461 note).

3 **SEC. 852. PERFORMANCE OF CERTAIN WORK BY FEDERAL**
4 **GOVERNMENT EMPLOYEES.**

5 (a) GUIDELINES.—(1) The Secretary of Defense shall
6 prescribe guidelines and procedures for ensuring that con-
7 sideration is given to using Federal Government employees
8 on a regular basis for work that is performed under De-
9 partment of Defense contracts and could be performed by
10 Federal Government employees.

11 (2) The guidelines and procedures prescribed under
12 paragraph (1) shall provide for special consideration to be
13 given to contracts that—

14 (A) have been performed by Federal Govern-
15 ment employees at any time on or after October 1,
16 1980;

17 (B) are associated with the performance of in-
18 herently governmental functions;

19 (C) were not awarded on a competitive basis; or

20 (D) have been determined by a contracting offi-
21 cer to be poorly performed due to excessive costs or
22 inferior quality.

23 (b) NEW REQUIREMENTS.—(1) No public-private
24 competition may be required under Office of Management
25 and Budget Circular A–76 or any other provision of law

1 or regulation before the performance of a new requirement
2 by Federal Government employees commences, the per-
3 formance by Federal Government employees of work pur-
4 suant to subsection (a) commences, or the scope of an ex-
5 isting activity performed by Federal Government employ-
6 ees is expanded. Office of Management and Budget Cir-
7 cular A-76 shall be revised to ensure that the heads of
8 all Federal agencies give fair consideration to the perform-
9 ance of new requirements by Federal Government employ-
10 ees.

11 (2) The Secretary of Defense shall, to the maximum
12 extent practicable, ensure that Federal Government em-
13 ployees are fairly considered for the performance of new
14 requirements, with special consideration given to new re-
15 quirements that include functions that—

16 (A) are similar to functions that have been per-
17 formed by Federal Government employees at any
18 time on or after October 1, 1980; or

19 (B) are associated with the performance of in-
20 herently governmental functions.

21 (c) USE OF FLEXIBLE HIRING AUTHORITY.—The
22 Secretary shall include the use of the flexible hiring au-
23 thority available through the National Security Personnel
24 System in order to facilitate performance by Federal Gov-

1 ernment employees of new requirements and work that is
2 performed under Department of Defense contracts.

3 (d) INSPECTOR GENERAL REPORT.—Not later than
4 180 days after the enactment of this Act, the Inspector
5 General of the Department of Defense shall submit to the
6 Committees on Armed Services of the Senate and the
7 House of Representatives a report on the compliance of
8 the Secretary of Defense with the requirements of this sec-
9 tion.

10 (e) DEFINITIONS.—In this section:

11 (1) The term “National Security Personnel Sys-
12 tem” means the human resources management sys-
13 tem established under the authority of section 9902
14 of title 5, United States Code.

15 (2) The term “inherently governmental func-
16 tion” has the meaning given that term in section 5
17 of the Federal Activities Inventory Reform Act of
18 1998 (Public Law 105–270; 112 Stat. 2384; 31
19 U.S.C. 501 note).

20 **SEC. 853. COMPETITIVE SOURCING REPORTING REQUIRE-**
21 **MENT.**

22 Not later than February 1, 2005, the Inspector Gen-
23 eral of the Department of Defense shall submit to Con-
24 gress a report addressing whether the Department of
25 Defense—

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

3 (A) to conduct satisfactorily, taking into
4 account equity, efficiency and expeditiousness,
5 all of the public-private competitions that are
6 scheduled to be undertaken by the Department
7 of Defense during the next fiscal year (includ-
8 ing a sufficient number of employees to formu-
9 late satisfactorily the performance work state-
10 ments and most efficient organization plans for
11 the purposes of such competitions); and

12 (B) to administer any resulting contracts;
13 and

14 (2) has implemented a comprehensive and reli-
15 able system to track and assess the cost and quality
16 of the performance of functions of the Department
17 of Defense by service contractors.

18 **Subtitle G—Other Matters**

19 **SEC. 861. INAPPLICABILITY OF CERTAIN FISCAL LAWS TO** 20 **SETTLEMENTS UNDER SPECIAL TEMPORARY** 21 **CONTRACT CLOSEOUT AUTHORITY.**

22 Section 804(a) of the National Defense Authorization
23 Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat.
24 1541) is amended—

1 (1) by inserting “(1)” after “(a) AUTHOR-
2 ITY.—”; and

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

5 “(2) Under regulations which the Secretary of De-
6 fense may prescribe, a settlement of a financial account
7 for a contract for the procurement of property or services
8 under paragraph (1) may be made without regard to—

9 “(A) section 1301 of title 31, United States
10 Code; and

11 “(B) any other provision of law that would pre-
12 clude the Secretary from charging payments under
13 the contract—

14 “(i) to an unobligated balance in an appro-
15 priation available for funding that contract; or

16 “(ii) if and to the extent that the unobli-
17 gated balance (if any) in such appropriation is
18 insufficient for funding such payments, to any
19 current appropriation that is available to the
20 Department of Defense for funding contracts
21 for the procurement of the same or similar
22 property or services.”.

1 **SEC. 862. DEMONSTRATION PROGRAM ON EXPANDED USE**
2 **OF RESERVES TO PERFORM DEVELOP-**
3 **MENTAL TESTING, NEW EQUIPMENT TRAIN-**
4 **ING, AND RELATED ACTIVITIES.**

5 (a) REQUIREMENT FOR PROGRAM.—The Secretary of
6 the Army shall carry out a demonstration program on use
7 of members of reserve components of the Armed Forces
8 to perform test, evaluation, and related activities for an
9 acquisition program. The Secretary shall design and carry
10 out the demonstration program to achieve the purposes
11 set forth in subsection (b).

12 (b) PURPOSES.—The purposes of the demonstration
13 program are as follows:

14 (1) To determine whether cost savings and
15 other benefits result from use of members of reserve
16 components of the Armed Forces instead of con-
17 tractor personnel to perform test and evaluation ac-
18 tivities for an acquisition program and related acqui-
19 sition, logistics, and new equipment training activi-
20 ties for the acquisition program.

21 (2) To evaluate the advisability of using appro-
22 priations available for multiyear research, develop-
23 ment, test, and evaluation and appropriations avail-
24 able for multiyear procurements to reimburse re-
25 serve components for the pay, allowances, and other

1 expenses paid to or for Reserves used for the acqui-
2 sition program as described in paragraph (1).

3 (c) REIMBURSEMENT OF PERSONNEL ACCOUNTS
4 OUT OF PROCUREMENT AND RDT&E ACCOUNTS.—(1)
5 The Secretary of the Army may transfer from funds avail-
6 able to the Army for an acquisition program to a reserve
7 component military personnel account the amount nec-
8 essary to reimburse that account for costs charged to that
9 account for military pay and allowances in connection with
10 the use of reserve component personnel for such acquisi-
11 tion program under this section.

12 (2) Not more than \$10,000,000 may be transferred
13 under this subsection during any fiscal year of the dem-
14 onstration program.

15 (3) Funds transferred to an account under this sub-
16 section shall be merged with other sums in the account
17 and shall be available for the same period and purposes
18 as the sums with which merged.

19 (4) The transfer authority under this subsection is
20 in addition to any other transfer authority provided in this
21 or any other Act.

22 (d) NONWAIVER OF PERSONNEL AND TRAINING
23 POLICIES AND PROCEDURES.—Nothing in this section
24 may be construed to authorize any deviation from estab-
25 lished personnel or training policies or procedures that are

1 applicable to the reserve components of the personnel used
2 under the demonstration program.

3 (e) **TERMINATION.**—The demonstration program
4 under this section shall terminate on September 30, 2009.

5 **SEC. 863. APPLICABILITY OF COMPETITION EXCEPTIONS**
6 **TO ELIGIBILITY OF NATIONAL GUARD FOR FI-**
7 **NANCIAL ASSISTANCE FOR PERFORMANCE**
8 **OF ADDITIONAL DUTIES.**

9 Section 113(b)(1)(B) of title 32, United States Code,
10 is amended by inserting before the period at the end the
11 following: “, subject to the exceptions provided in section
12 2304(c) of title 10”.

13 **SEC. 864. MANAGEMENT PLAN FOR CONTRACTOR SECUR-**
14 **ITY PERSONNEL.**

15 (a) **REQUIREMENT FOR PLAN.**—Not later than 90
16 days after the date of the enactment of this Act, the Sec-
17 retary of Defense shall submit to the congressional defense
18 committees, the Select Committee on Intelligence of the
19 Senate, and the Permanent Select Committee on Intel-
20 ligence of the House of Representatives a plan for the
21 management and oversight of contractor security per-
22 sonnel by Federal Government personnel in areas where
23 the Armed Forces are engaged in military operations. In
24 the preparation of such plan, the Secretary shall coordi-
25 nate, as appropriate, with the heads of other departments

1 and agencies of the Federal Government that would be
2 affected by the implementation of the plan.

3 (b) POLICIES AND PROCEDURES.—The plan under
4 this section shall set forth policies and procedures applica-
5 ble to contractor security personnel in potentially haz-
6 ardous areas of military operations. The policies and pro-
7 cedures shall address the following matters:

8 (1) Warning contractor security personnel of
9 potentially hazardous situations.

10 (2) Coordinating the movement of contractor
11 security personnel, especially through areas of in-
12 creased risk or planned or ongoing military oper-
13 ations.

14 (3) Rapidly identifying contractor security per-
15 sonnel by members of the Armed Forces.

16 (4) Sharing relevant threat information with
17 contractor security personnel, and receiving informa-
18 tion gathered by contractor security personnel for
19 use by United States and coalition forces.

20 (5) Providing appropriate assistance to con-
21 tractor security personnel who become engaged in
22 hostile situations.

23 (6) Providing medical assistance for, and evacu-
24 ation of, contractor personnel who become casualties
25 as a result of enemy actions.

1 (7) Investigating background and qualifications
2 of contractor security personnel and organizations.

3 (8) Establishing rules of engagement for armed
4 contractor security personnel, and ensuring proper
5 training and compliance with the rules of engage-
6 ment.

7 (c) OPTIONS FOR ENHANCED AND COST-EFFECTIVE
8 CONTRACTOR SECURITY.—The plan under subsection (a)
9 shall include assessed options for enhancing contractor se-
10 curity and reducing contractor security costs in Iraq or
11 in locations of armed conflict in the future. The options
12 covered shall include the following:

13 (1) Temporary commissioning of contractor se-
14 curity personnel as reserve component officers in
15 order to subject such personnel to the military chain
16 of command.

17 (2) Requiring contractor security personnel to
18 obtain security clearances to facilitate the commu-
19 nication of critical threat information.

20 (3) Establishing a contract schedule for compa-
21 nies furnishing contractor security personnel to pro-
22 vide a more orderly process for the selection, train-
23 ing, and compensation of such personnel.

1 (4) Establishing a contract schedule for compa-
2 nies to provide more cost-effective insurance for con-
3 tractor security personnel.

4 (5) Providing for United States indemnification
5 of contractors to reduce the costs of insuring con-
6 tractor security personnel.

7 **SEC. 865. REPORT ON CONTRACTOR PERFORMANCE OF SE-**
8 **CURITY, INTELLIGENCE, LAW ENFORCE-**
9 **MENT, AND CRIMINAL JUSTICE FUNCTIONS**
10 **IN IRAQ.**

11 (a) REPORT REQUIRED.—Not later than 60 days
12 after the date of the enactment of this Act, the Secretary
13 of Defense shall submit to the congressional defense com-
14 mittees a report on the procurement of services, by an
15 agency of the United States Government or by the Coali-
16 tion Provisional Authority, for the performance of secu-
17 rity, intelligence, law enforcement, and criminal justice
18 functions in Iraq.

19 (b) CONTENT.—The report under subsection (a) shall
20 include, at a minimum, the following:

21 (1) Each security, intelligence, law enforcement,
22 or criminal justice function performed by a con-
23 tractor in Iraq.

24 (2) For each such function—

1 (A) a determination of whether such func-
2 tion is an inherently governmental function, to-
3 gether with a discussion of the factual basis
4 and rationale for that determination;

5 (B) an explanation of the basis for the de-
6 cision to rely on a contractor to perform such
7 function, including a discussion of the extent to
8 which the Armed Forces lacked the expertise or
9 manpower to perform that function using
10 Armed Forces personnel;

11 (C) a description of the chain of command
12 for the contractor performing such function, to-
13 gether with a discussion of the manner in which
14 the United States Government or the Coalition
15 Provisional Authority supervises and directs the
16 contractor's performance of that function; and

17 (D) what sanctions are available to impose
18 on any contractor employee who—

19 (i) fails to comply with a requirement
20 of law or regulation that applies to such
21 employee in the performance of that func-
22 tion; or

23 (ii) engages in other misconduct in
24 the performance of that function.

1 processes that are available for measuring the quality of
2 information technology and related services through as-
3 sessment of the production methods of the producers of
4 the technology.

5 (b) PURPOSES.—The purposes of the study of com-
6 mercial off-the-shelf processes under subsection (a) are as
7 follows:

8 (1) To assess the value of such a process as a
9 consistent methodology for identifying high quality
10 information technology and the engineering sources
11 capable of providing high quality information tech-
12 nology and related services.

13 (2) To determine whether to accredit such a
14 process for use in procurements of information tech-
15 nology and related services throughout the Depart-
16 ment of Defense.

17 (c) SAVINGS AND ENHANCEMENTS.—In carrying out
18 the study under subsection (a), the Secretary shall deter-
19 mine the benefits that would result for the Department
20 of Defense from use throughout the Department of De-
21 fense of a commercial off-the-shelf process described in
22 that subsection to measure the quality of information tech-
23 nology products and services in procurements described in
24 subsection (b)(2), including—

1 **“§ 2383. Contractor performance of acquisition func-**
2 **tions closely associated with inherently**
3 **governmental functions**

4 “(a) LIMITATION.—The head of an agency may enter
5 a contract for the performance of acquisition functions
6 closely associated with inherently governmental functions
7 only if the Secretary determines that—

8 “(1) appropriate military or civilian personnel
9 of the Department of Defense cannot reasonably be
10 made available to perform the functions;

11 “(2) appropriate military or civilian personnel
12 of the Department of Defense are—

13 “(A) to supervise contractor performance
14 of the contract; and

15 “(B) to perform all inherently govern-
16 mental functions associated with the functions
17 to be performed under the contract; and

18 “(3) the contractor does not have an organiza-
19 tional conflict of interest or the appearance of an or-
20 ganizational conflict of interest in the performance
21 of the functions under the contract.

22 “(b) DEFINITIONS.—In this section:

23 “(1) The term ‘head of an agency’ has the
24 meaning given such term in section 2302(1) of this
25 title, except that such term does not include the Sec-
26 retary of Homeland Security or the Administrator of

1 the National Oceanic and Atmospheric Administra-
2 tion.

3 “(2) The term ‘inherently governmental func-
4 tions’ has the meaning given such term in subpart
5 7.5 of part 7 of the Federal Acquisition Regulation.

6 “(3) The term ‘functions closely associated with
7 inherently governmental functions’ means the func-
8 tions described in section 7.503(d) of the Federal
9 Acquisition Regulation.

10 “(4) The term ‘organizational conflict of inter-
11 est’ has the meaning given such term in subpart 9.5
12 of part 9 of the Federal Acquisition Regulation.”.

13 (2) The table of sections at the beginning of such
14 chapter is amended by inserting after the item relating
15 to section 2382 the following new item:

“2383. Contractor performance of acquisition functions closely associated with
inherently governmental functions.”.

16 (b) EFFECTIVE DATE AND APPLICABILITY.—Section
17 2383 of title 10, United States Code (as added by sub-
18 section (a)), shall take effect on the date of enactment
19 of this Act and shall apply to—

20 (1) contracts entered into on or after such date;

21 (2) any task or delivery order issued on or after
22 such date under a contract entered into before, on,
23 or after such date; and

1 (2) either—

2 (A) is in effect on such date; or

3 (B) was in effect on the date of the enact-
4 ment of the National Defense Authorization Act
5 for Fiscal Year 2004 (Public Law 108–136).

6 (c) REPEAL OF SUPERSEDED LAW.—Section 852 of
7 the National Defense Authorization Act for Fiscal Year
8 2004 (Public Law 108–136; 117 Stat. 1556) is repealed.

9 **SEC. 869. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

10 The Secretary of Defense shall, to the extent prac-
11 ticable, exercise existing statutory authority, including the
12 authority provided by section 2865 of title 10, United
13 States Code, and section 8256 of title 42, United States
14 Code, to introduce life-cycle cost-effective upgrades to
15 Federal assets through shared energy savings contracting,
16 demand management programs, and utility incentive pro-
17 grams.

18 **SEC. 870. AVAILABILITY OF FEDERAL SUPPLY SCHEDULE**
19 **SUPPLIES AND SERVICES TO UNITED SERV-**
20 **ICE ORGANIZATIONS, INCORPORATED.**

21 Section 220107 of title 36, United States Code, is
22 amended by inserting after “Department of Defense” the
23 following: “, including access to General Services Adminis-
24 tration supplies and services through the Federal Supply
25 Schedule of the General Services Administration,”.

1 **SEC. 871. ACQUISITION OF AERIAL REFUELING AIRCRAFT**
2 **FOR THE AIR FORCE.**

3 (a) COMPLIANCE WITH APPLICABLE REQUIRE-
4 MENTS.—The Secretary of Defense shall ensure that the
5 Secretary of the Air Force does not proceed with the ac-
6 quisition of aerial refueling aircraft for the Air Force by
7 lease or other contract, either with full and open competi-
8 tion or under section 135 of the National Defense Author-
9 ization Act for Fiscal Year 2004 (Public Law 108–136;
10 117 Stat. 1413) until the date that is 60 days after the
11 date on which the Secretary Defense has—

12 (1) reviewed all documentation for the acquisi-
13 tion, including—

14 (A) the completed aerial refueling analysis
15 of alternatives (AOA) required by section
16 134(b) of the National Defense Authorization
17 Act for Fiscal Year 2004, pursuant to “Anal-
18 ysis of Alternatives (AoA) Guidance of KC–135
19 Recapitalization”, dated February 24, 2004;

20 (B) the completed aerial refueling portion
21 of the Mobility Capabilities Study;

22 (C) a new validated capabilities document
23 in accordance with the applicable Chairman of
24 Joint Chiefs of Staff Instruction; and

1 (D) the approval of a Defense Acquisition
2 Board in accordance with Department of De-
3 fense regulations; and

4 (2) submitted to the congressional defense com-
5 mittees a determination in writing that the acquisi-
6 tion is in compliance with all currently applicable
7 laws, Office of Management and Budget circulars,
8 and regulations.

9 (b) INDEPENDENT REVIEW.—Not later than 45 days
10 after the Secretary of Defense makes the determination
11 described in paragraph (2) of subsection (a), the Comp-
12 troller General and the Inspector General of the Depart-
13 ment of Defense shall each review the documentation re-
14 ferred to in paragraph (1) of such subsection and submit
15 to the congressional defense committees a report on the
16 extent to which the acquisition is—

17 (1) in compliance with the requirements of this
18 section and all currently applicable laws, Office of
19 Management and Budget circulars, and regulations;
20 and

21 (2) consistent with the analysis of alternatives
22 referred to in subparagraph (A) of subsection (a)(1)
23 and the other documentation referred to in such
24 subsection.

1 (c) LIMITATION ON ACQUISITION BEYOND LOW-
2 RATE INITIAL PRODUCTION.—(1) The acquisition by lease
3 or other contract of any aerial refueling aircraft for the
4 Air Force beyond low-rate initial production shall be sub-
5 ject to, and for such acquisition the Secretary of the Air
6 Force shall comply with, the requirements of sections
7 2366 and 2399 of title 10, United States Code.

8 (2) For the purposes of this subsection, the term
9 “low-rate initial production”, with respect to a lease, shall
10 have the same meaning as applies in the administration
11 of sections 2366 and 2399 of title 10, United States Code,
12 with regard to any other form of acquisition.

13 (d) SOURCE SELECTION FOR INTEGRATED SUPPORT
14 OF AERIAL REFUELING AIRCRAFT FLEET.—For the se-
15 lection of a provider of integrated support for the aerial
16 refueling aircraft fleet in any acquisition by lease or other
17 contract of aerial refueling aircraft for the Air Force, the
18 Secretary of the Air Force shall—

19 (1) before selecting the provider, perform all
20 analyses required by law of—

21 (A) the costs and benefits of—

22 (i) the alternative of using Federal
23 Government personnel to provide such sup-
24 port; and

- 1 (ii) the alternative of using contractor
2 personnel to provide such support;
3 (B) the core logistics requirements;
4 (C) use of performance-based logistics; and
5 (D) the length of contract period; and

6 (2) select the provider on the basis of fairly
7 conducted full and open competition (as defined in
8 section 4(6) of the Office of Federal Procurement
9 Policy Act (41 U.S.C. 403(6))).

10 (e) PRICE INFORMATION.—Before the Secretary of
11 the Air Force commits to acquiring by lease or other con-
12 tract any aerial refueling aircraft for the Air Force, the
13 Secretary shall require the manufacturer to provide, with
14 respect to commercial items covered by the lease or con-
15 tract, appropriate information on the prices at which the
16 same or similar items have previously been sold that is
17 adequate for evaluating the reasonableness of the price for
18 the items.

19 (f) AUDIT SERVICES.—The Secretary of the Air
20 Force shall contact the Office of the Inspector General for
21 the Department of Defense for review and approval of any
22 Air Force use of non-Federal audit services for any lease
23 or other contract for the acquisition of aerial refueling air-
24 craft.

1 **TITLE IX—DEPARTMENT OF DE-**
2 **FENSE ORGANIZATION AND**
3 **MANAGEMENT**

4 **Subtitle A—Reserve Components**

5 **SEC. 901. MODIFICATION OF STATED PURPOSE OF THE RE-**
6 **SERVE COMPONENTS.**

7 Section 10102 of title 10, United States Code, is
8 amended by striking “, during and after the period needed
9 to procure and train additional units and qualified persons
10 to achieve the planned mobilization,”.

11 **SEC. 902. COMMISSION ON THE NATIONAL GUARD AND RE-**
12 **SERVES.**

13 (a) ESTABLISHMENT.—There is established a com-
14 mission to be known as the “Commission on the National
15 Guard and Reserves” (hereafter in this section referred
16 to as the “Commission”).

17 (b) COMPOSITION.—(1) The Commission shall be
18 composed of 13 members appointed as follows:

19 (A) Three members appointed by the chairman
20 of the Committee on Armed Services of the Senate.

21 (B) Three members appointed by the chairman
22 of the Committee on Armed Services of the House
23 of Representatives.

1 (C) Two members appointed by the ranking mi-
2 nority member of the Committee on Armed Services
3 of the Senate.

4 (D) Two members appointed by the ranking mi-
5 nority member of the Committee on Armed Service
6 of the House of Representatives.

7 (E) Three members appointed by the Secretary
8 of Defense.

9 (2) The members of the Commission shall be ap-
10 pointed from among persons who have knowledge and ex-
11 pertise in the following areas:

12 (A) National security.

13 (B) Roles and missions of any of the Armed
14 Forces.

15 (C) The mission, operations, and organization
16 of the National Guard of the United States.

17 (D) The mission, operations, and organization
18 of the other reserve components of the Armed
19 Forces.

20 (E) Military readiness of the Armed Forces.

21 (F) Personnel pay and other forms of com-
22 pensation.

23 (G) Other personnel benefits, including health
24 care.

1 (3) Members of the Commission shall be appointed
2 for the life of the Commission. A vacancy in the member-
3 ship of the Commission shall not affect the powers of the
4 Commission, but shall be filled in the same manner as the
5 original appointment.

6 (4) The Secretary of Defense shall designate a mem-
7 ber of the Commission to be chairman of the Commission.

8 (c) DUTIES.—(1) The Commission shall carry out a
9 study of the following matters:

10 (A) The roles and missions of the National
11 Guard and the other reserve components of the
12 Armed Forces.

13 (B) The compensation and other benefits, in-
14 cluding health care benefits, that are provided for
15 members of the reserve components under the laws
16 of the United States.

17 (2) In carrying out the study under paragraph (1),
18 the Commission shall—

19 (A) assess the current roles and missions of the
20 reserve components and identify appropriate poten-
21 tial future roles and missions for the reserve compo-
22 nents;

23 (B) assess the capabilities of the reserve compo-
24 nents and determine how the units and personnel of
25 the reserve components may be best used to support

1 the military operations of the Armed Forces and the
2 achievement of national security objectives, including
3 homeland defense, of the United States;

4 (C) assess—

5 (i) the current organization and structure
6 of the National Guard and the other reserve
7 components; and

8 (ii) the plans of the Department of De-
9 fense and the Armed Forces for future organi-
10 zation and structure of the National Guard and
11 the other reserve components;

12 (D) assess the manner in which the National
13 Guard and the other reserve components are cur-
14 rently organized and funded for training and iden-
15 tify an organizational and funding structure for
16 training that best supports the achievement of train-
17 ing objectives and operational readiness;

18 (E) assess the effectiveness of the policies and
19 programs of the National Guard and the other re-
20 serve components for achieving operational readiness
21 and personnel readiness, including medical and per-
22 sonal readiness;

23 (F) assess—

24 (i) the adequacy and appropriateness of
25 the compensation and benefits currently pro-

1 vided for the members of the National Guard
2 and the other reserve components, including the
3 availability of health care benefits and health
4 insurance; and

5 (ii) the effects of proposed changes in com-
6 pensation and benefits on military careers in
7 both the regular and the reserve components of
8 the Armed Forces;

9 (G) identify various feasible options for improv-
10 ing the compensation and other benefits available to
11 the members of the National Guard and the mem-
12 bers of the other reserve components and assess—

13 (i) the cost-effectiveness of such options;
14 and

15 (ii) the foreseeable effects of such options
16 on readiness, recruitment, and retention of per-
17 sonnel for careers in the regular and reserve
18 components the Armed Forces;

19 (H) assess the traditional military career paths
20 for members of the National Guard and the other
21 reserve components and identify alternative career
22 paths that could enhance professional development;
23 and

24 (I) assess the adequacy of the funding provided
25 for the National Guard and the other reserve compo-

1 nents for several previous fiscal years, including the
2 funding provided for National Guard and reserve
3 component equipment and the funding provided for
4 National Guard and other reserve component per-
5 sonnel in active duty military personnel accounts
6 and reserve military personnel accounts.

7 (d) FIRST MEETING.—The Commission shall hold its
8 first meeting not later than 30 days after the date on
9 which all members of the Commission have been ap-
10 pointed.

11 (e) ADMINISTRATIVE AND PROCEDURAL AUTHORI-
12 TIES.—(1) Except as provided in paragraph (2), sections
13 955, 956, 957, 958, and 959 of the National Defense Au-
14 thorization Act for Fiscal Year 1994 (Public Law 103–
15 160; 107 Stat. 1740; 10 U.S.C 111 note) shall apply to
16 the Commission.

17 (2)(A) The daily rate of pay payable under section
18 957(a) of Public Law 103–160 shall be equal to the daily
19 rate of basic pay prescribed for level IV of the Executive
20 Schedule.

21 (B) Section 957(f) of Public Law 103–160 (relating
22 to services of federally funded research and development
23 centers) shall not apply to the Commission.

24 (3) The following provisions of law do not apply to
25 the Commission:

1 (A) Section 3161 of title 5, United States Code.

2 (B) The Federal Advisory Committee Act (5
3 U.S.C. App.).

4 (f) REPORTS.—(1) Not later than March 31, 2005,
5 the Commission shall submit to the Committees on Armed
6 Services of the Senate and the House of Representatives
7 a report setting forth—

8 (A) a strategic plan for the work of the Com-
9 mission;

10 (B) a discussion of the activities of the Com-
11 mission; and

12 (C) any initial findings of the Commission.

13 (2) Not later than December 31, 2005, the Commis-
14 sion shall submit a final report to the Committees of Con-
15 gress referred to in paragraph (1). The final report shall
16 include any recommendations that the Commission deter-
17 mines appropriate, including any recommended legislation,
18 policies, regulations, directives, and practices.

19 (g) TERMINATION.—The Commission shall terminate
20 90 days after the date on which the final report is sub-
21 mitted under subsection (f)(2).

22 (h) ANNUAL REVIEW BOARD.—(1)(A) Chapter 7 of
23 title 10, United States Code, is amended by adding at the
24 end the following new section:

1 **“§ 186. Reserve components: annual review**

2 “(a) INDEPENDENT REVIEW BOARD.—The Secretary
3 of Defense shall appoint a board to review the reserve
4 components of the armed forces.

5 “(b) COMPOSITION OF BOARD.—(1) The Secretary
6 shall appoint the members of the board from among per-
7 sons who have knowledge and expertise in the following
8 areas:

9 “(A) National security.

10 “(B) Roles and missions of any of the armed
11 forces.

12 “(C) The mission, operations, and organization
13 of any of the reserve components.

14 “(D) Military readiness of the armed forces.

15 “(E) Personnel pay and other forms of com-
16 pensation.

17 “(F) Other personnel benefits, including health
18 care.

19 “(2) The Secretary of Defense shall designate a mem-
20 ber of the board to be chairman of the board.

21 “(c) DUTIES.—The board shall, on an annual basis—

22 “(1) review—

23 “(A) the roles and missions of the reserve
24 components; and

25 “(B) the compensation and other benefits,
26 including health care benefits, that are provided

1 for members of the reserve components under
2 the laws of the United States; and

3 “(2) submit to the Secretary of Defense a re-
4 port on the review, which shall include the findings
5 of the board regarding the matters reviewed and any
6 recommendations that the board considers appro-
7 priate regarding those matters.

8 “(d) REPORT TO CONGRESS.—Promptly after receiv-
9 ing the report under subsection (c)(2), the Secretary shall
10 transmit the report, together with any comments and rec-
11 ommendations that the Secretary considers appropriate,
12 to the Committee on Armed Services of the Senate and
13 the Committee on Armed Services of the House of Rep-
14 resentatives.

15 “(e) ADMINISTRATIVE PROVISIONS.—Section 180(d)
16 of this title shall apply to the members of the review board
17 appointed under this section.”.

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

 “186. Reserve components: annual review.”.

21 (2) The first review board under section 186 of title
22 10, United States Code (as added by paragraph (1)), shall
23 be appointed during fiscal year 2006.

1 **SEC. 903. CHAIN OF SUCCESSION FOR THE CHIEF OF THE**
 2 **NATIONAL GUARD BUREAU.**

3 (a) SENIOR OFFICER.—(1) Section 10502 of title 10,
 4 United States Code, is amended by adding at the end the
 5 following new subsection:

6 “(e) SUCCESSION.—Unless otherwise directed by the
 7 President or the Secretary of Defense, the most senior of-
 8 ficer among the officers of the Army National Guard of
 9 the United States and the officers of the Air National
 10 Guard of the United States performing the duties of posi-
 11 tions in the National Guard Bureau shall act as the Chief
 12 of the National Guard Bureau during any period that—

13 “(1) there is a vacancy in the position of Chief
 14 of the National Guard Bureau; or

15 “(2) the Chief is unable to perform the duties
 16 of that position.”.

17 (2)(A) The heading of such section is amended by
 18 adding at the end the following: “; **succession**”.

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

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

22 (b) CONFORMING AMENDMENT.—Section 10505 of
 23 such title is amended by striking subsections (d) and (e).

1 **SEC. 904. REDESIGNATION OF VICE CHIEF OF THE NA-**
2 **TIONAL GUARD BUREAU AS DIRECTOR OF**
3 **THE JOINT STAFF OF THE NATIONAL GUARD**
4 **BUREAU.**

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

10 (b) CONFORMING AMENDMENTS.—(1) Subsections
11 (a)(3)(A), (a)(3)(B), (b), (c), and (d) of section 10505 of
12 title 10, United States Code, are amended by striking
13 “Vice Chief of the National Guard Bureau” and inserting
14 “Director of the Joint Staff of the National Guard Bu-
15 reau”.

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

19 (3) Paragraphs (2) and (4) of subsection (a) of such
20 section are amended by striking “Chief and Vice Chief of
21 the National Guard Bureau” and inserting “Chief of the
22 National Guard Bureau and the Director of the Joint
23 Staff of the National Guard Bureau”.

24 (4)(A) Subsection (e) of such section is amended—
25 (i) by striking “Chief and Vice Chief of the Na-
26 tional Guard Bureau or in the absence or disability

1 of both the Chief and Vice Chief of the National
2 Guard Bureau” and inserting “Chief of the National
3 Guard Bureau and the Director of the Joint Staff
4 of the National Guard Bureau or in the absence or
5 disability of both the Chief and the Director”;

6 (ii) by striking “Chief or Vice Chief” both
7 places it appears and inserting “Chief or Director”.

8 (B) The heading for such subsection is amended by
9 striking “VICE CHIEF.—” and inserting “DIRECTOR OF
10 THE JOINT STAFF.—”.

11 (5) Section 10506(a)(1) of title 10, United States
12 Code, is amended by striking “Chief and Vice Chief of
13 the National Guard Bureau” and inserting “Chief of the
14 National Guard Bureau and the Director of the Joint
15 Staff of the National Guard Bureau”.

16 (c) CLERICAL AMENDMENTS.—(1) The heading for
17 section 10505 of title 10, United States Code, is amended
18 to read as follows:

19 **“§ 10505. Director of the Joint Staff of the National**
20 **Guard Bureau”.**

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

“10505. Director of the Joint Staff of the National Guard Bureau.”.

24 (d) OTHER REFERENCES.—Any reference that is
25 made in any law, regulation, document, paper, or other

1 record of the United States to the Vice Chief of the Na-
2 tional Guard Bureau shall be deemed to be a reference
3 to the Director of the Joint Staff of the National Guard
4 Bureau.

5 **SEC. 905. AUTHORITY TO REDESIGNATE THE NAVAL RE-**
6 **SERVE.**

7 (a) **AUTHORITY OF SECRETARY OF THE NAVY.**—The
8 Secretary of the Navy may, with the approval of the Presi-
9 dent, redesignate the Naval Reserve as the “Navy Re-
10 serve” effective on the date that is 180 days after the date
11 on which the Secretary submits recommended legislation
12 under subsection (b).

13 (b) **RECOMMENDED LEGISLATION.**—If the Secretary
14 of the Navy exercises the authority to redesignate the
15 Naval Reserve under subsection (a), the Secretary shall
16 submit to the Committee on Armed Services of the Senate
17 and the Committee on Armed Services of the House of
18 Representatives recommended legislation that identifies
19 each specific provision of law that refers to the Naval Re-
20 serve and sets forth an amendment to that specific provi-
21 sion of law to conform the reference to the new designa-
22 tion.

23 (c) **EFFECT OF REDESIGNATION.**—On and after the
24 effective date of a redesignation of the Naval Reserve
25 under subsection (a), any reference in any law, map, regu-

1 lation, document, paper, or other record of the United
2 States to the Naval Reserve shall be deemed to be a ref-
3 erence to the Navy Reserve.

4 **SEC. 906. HOMELAND SECURITY ACTIVITIES OF THE NA-**
5 **TIONAL GUARD.**

6 (a) **AUTHORITY.**—Chapter 1 of title 32, United
7 States Code, is amended by adding at the end the fol-
8 lowing new section:

9 **“§ 116. Homeland security activities**

10 “(a) **USE OF PERSONNEL PERFORMING FULL-TIME**
11 **NATIONAL GUARD DUTY.**—The Governor of a State may,
12 upon the request by the head of a Federal agency and
13 with the concurrence of the Secretary of Defense, order
14 any personnel of the National Guard of the State to per-
15 form full-time National Guard duty under section 502(f)
16 of this title for the purpose of carrying out homeland secu-
17 rity activities, as described in subsection (b).

18 “(b) **PURPOSE AND DURATION.**—(1) The purpose for
19 the use of personnel of the National Guard of a State
20 under this section is to temporarily provide trained and
21 disciplined personnel to a Federal agency to assist that
22 agency in carrying out homeland security activities.

23 “(2) The duration of the use of the National Guard
24 of a State under this section shall be limited to a period
25 of 180 days. The Governor of the State may, with the con-

1 currence of the Secretary of Defense, extend the period
2 one time for an additional 90 days to meet extraordinary
3 circumstances.

4 “(c) RELATIONSHIP TO REQUIRED TRAINING.— A
5 member of the National Guard serving on full-time Na-
6 tional Guard duty under orders authorized under sub-
7 section (a) shall participate in the training required under
8 section 502(a) of this title in addition to the duty per-
9 formed for the purpose authorized under that subsection.
10 The pay, allowances, and other benefits of the member
11 while participating in the training shall be the same as
12 those to which the member is entitled while performing
13 duty for the purpose of carrying out homeland security
14 activities. The member is not entitled to additional pay,
15 allowances, or other benefits for participation in training
16 required under section 502(a)(1) of this title.

17 “(d) READINESS.—To ensure that the use of units
18 and personnel of the National Guard of a State for home-
19 land security activities does not degrade the training and
20 readiness of such units and personnel, the following re-
21 quirements shall apply in determining the homeland secu-
22 rity activities that units and personnel of the National
23 Guard of a State may perform:

24 “(1) The performance of the activities may not
25 adversely affect the quality of that training or other-

1 wise interfere with the ability of a member or unit
2 of the National Guard to perform the military func-
3 tions of the member or unit.

4 “(2) National Guard personnel will not degrade
5 their military skills as a result of performing the ac-
6 tivities.

7 “(3) The performance of the activities will not
8 result in a significant increase in the cost of train-
9 ing.

10 “(4) In the case of homeland security per-
11 formed by a unit organized to serve as a unit, the
12 activities will support valid unit training require-
13 ments.

14 “(e) PAYMENT OF COSTS.—(1) The Secretary of De-
15 fense shall provide funds to the Governor of a State to
16 pay costs of the use of personnel of the National Guard
17 of the State for the performance of homeland security ac-
18 tivities under this section. Such funds shall be used for
19 the following costs:

20 “(A) The pay, allowances, clothing, subsistence,
21 gratuities, travel, and related expenses (including all
22 associated training expenses, as determined by the
23 Secretary), as authorized by State law, of personnel
24 of the National Guard of that State used, while not

1 in Federal service, for the purpose of homeland secu-
2 rity activities.

3 “(B) The operation and maintenance of the
4 equipment and facilities of the National Guard of
5 that State used for the purpose of homeland security
6 activities.

7 “(2) The Secretary of Defense shall require the head
8 of an agency receiving support from the National Guard
9 of a State in the performance of homeland security activi-
10 ties under this section to reimburse the Department of De-
11 fense for the payments made to the State for such support
12 under paragraph (1).

13 “(f) MEMORANDUM OF AGREEMENT.—The Secretary
14 of Defense and the Governor of a State shall enter into
15 a memorandum of agreement with the head of each Fed-
16 eral agency to which the personnel of the National Guard
17 of that State are to provide support in the performance
18 of homeland security activities under this section. The
19 memorandum of agreement shall—

20 “(1) specify how personnel of the National
21 Guard are to be used in homeland security activities;

22 “(2) include a certification by the Adjutant
23 General of the State that those activities are to be
24 performed at a time when the personnel are not in
25 Federal service;

1 “(3) include a certification by the Adjutant
2 General of the State that—

3 “(A) participation by National Guard per-
4 sonnel in those activities is service in addition
5 to training required under section 502 of this
6 title; and

7 “(B) the requirements of subsection (d) of
8 this section will be satisfied;

9 “(4) include a certification by the Attorney
10 General of the State (or, in the case of a State with
11 no position of Attorney General, a civilian official of
12 the State equivalent to a State attorney general),
13 that the use of the National Guard of the State for
14 the activities provided for under the memorandum of
15 agreement is authorized by, and is consistent with,
16 State law;

17 “(5) include a certification by the Governor of
18 the State or a civilian official of the State designated
19 by the Governor that the activities provided for
20 under the memorandum of agreement serve a State
21 security purpose; and

22 “(6) include a certification by the head of the
23 Federal agency that the agency will have a plan to
24 ensure that the agency’s requirement for National

1 Guard support ends not later than 179 days after
2 the commencement of the support.

3 “(g) EXCLUSION FROM END-STRENGTH COMPUTA-
4 TION.—Notwithstanding any other provision of law, mem-
5 bers of the National Guard on active duty or full-time Na-
6 tional Guard duty for the purposes of administering (or
7 during fiscal year 2003 otherwise implementing) this sec-
8 tion shall not be counted toward the annual end strength
9 authorized for Reserves on active duty in support of the
10 reserve components of the armed forces or toward the
11 strengths authorized in sections 12011 and 12012 of title
12 10.

13 “(h) ANNUAL REPORT.—The Secretary of Defense
14 shall submit to Congress an annual report regarding any
15 assistance provided and activities carried out under this
16 section during the preceding fiscal year. The report shall
17 include the following:

18 “(1) The number of members of the National
19 Guard excluded under subsection (g) from the com-
20 putation of end strengths.

21 “(2) A description of the homeland security ac-
22 tivities conducted with funds provided under this
23 section.

24 “(3) An accounting of the amount of funds pro-
25 vided to each State.

1 “(4) A description of the effect on military
2 training and readiness of using units and personnel
3 of the National Guard to perform homeland security
4 activities under this section.

5 “(i) STATUTORY CONSTRUCTION.—Nothing in this
6 section shall be construed as a limitation on the authority
7 of any unit of the National Guard of a State, when such
8 unit is not in Federal service, to perform functions author-
9 ized to be performed by the National Guard by the laws
10 of the State concerned.

11 “(j) DEFINITIONS.—For purposes of this section:

12 “(1) The term ‘Governor of a State’ means, in
13 the case of the District of Columbia, the Com-
14 manding General of the National Guard of the Dis-
15 trict of Columbia.

16 “(2) The term ‘State’ means each of the several
17 States, the District of Columbia, the Commonwealth
18 of Puerto Rico, or a territory or possession of the
19 United States.”.

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

“116. Homeland security activities.”.

1 **Subtitle B—Other Matters**

2 **SEC. 911. STUDY OF ROLES AND AUTHORITIES OF THE DI-** 3 **RECTOR OF DEFENSE RESEARCH AND ENGI-** 4 **NEERING.**

5 (a) **STUDY REQUIRED.**—The Secretary of Defense
6 shall carry out a study of the roles and authorities of the
7 Director of Defense Research and Engineering.

8 (b) **CONTENT OF STUDY.**—The study under this sec-
9 tion shall include the following:

10 (1) An examination of the past and current
11 roles and authorities of the Director of Defense Re-
12 search and Engineering.

13 (2) An analysis to determine appropriate future
14 roles and authorities for the Director, including an
15 analysis of the following matters:

16 (A) The relationship of the Director to
17 other senior science and technology and acquisi-
18 tion officials of the military departments and
19 the Defense Agencies

20 (B) The relationship of the Director to the
21 performance of the following functions:

22 (i) The planning, programming, and
23 budgeting of the science and technology
24 programs of the Department of Defense,

1 including those of the military departments
2 and the Defense Agencies.

3 (ii) The management of Department
4 of Defense laboratories and technical cen-
5 ters, including the management of the
6 Federal Government scientific and tech-
7 nical workforce for such laboratories and
8 centers.

9 (iii) The promotion of the rapid tran-
10 sition of technologies to acquisition pro-
11 grams within the Department of Defense.

12 (iv) The promotion of the transfer of
13 technologies into and from the commercial
14 sector.

15 (v) The coordination of Department of
16 Defense science and technology activities
17 with organizations outside the Department
18 of Defense, including other Federal Gov-
19 ernment agencies, international research
20 organizations, industry, and academia.

21 (vi) The technical review of Depart-
22 ment of Defense acquisition programs and
23 policies.

1 (vii) The training and educational ac-
2 tivities for the national scientific and tech-
3 nical workforce.

4 (viii) The development of science and
5 technology policies and programs relating
6 to the maintenance of the national tech-
7 nology and industrial base.

8 (3) An examination of the duties of the Direc-
9 tor as the Chief Technology Officer of the Depart-
10 ment of Defense, especially in comparison to the du-
11 ties of similar positions in the Federal Government
12 and industry.

13 (4) An examination of any other matters that
14 the Secretary considers appropriate for the study.

15 (c) REPORT.—(1) Not later than February 1, 2006,
16 the Secretary shall submit a report on the results of the
17 study under this section to the congressional defense com-
18 mittees.

19 (2) The report shall include recommendations regard-
20 ing the appropriate roles, authorities, and resources that
21 should be assigned to the Director of Defense Research
22 and Engineering in order to enable the Director to serve
23 effectively as the Chief Technology Officer of the Depart-
24 ment of Defense and to support the transformation of the
25 Armed Forces.

1 (d) ROLE OF DEFENSE SCIENCE BOARD IN STUDY
2 AND REPORT.—The Secretary shall act through the De-
3 fense Science Board in carrying out the study under this
4 section and preparing the report under subsection (c).

5 **SEC. 912. DIRECTORS OF SMALL BUSINESS PROGRAMS.**

6 (a) REDESIGNATION OF EXISTING POSITIONS AND
7 OFFICES.—(1) Each of the following positions within the
8 Department of Defense is redesignated as the Director of
9 Small Business Programs:

10 (A) The Director of Small and Disadvantaged
11 Business Utilization of the Department of Defense.

12 (B) The Director of Small and Disadvantaged
13 Business Utilization of the Department of the Army.

14 (C) The Director of Small and Disadvantaged
15 Business Utilization of the Department of the Navy.

16 (D) The Director of Small and Disadvantaged
17 Business Utilization of the Department of the Air
18 Force.

19 (2) Each of the following offices within the Depart-
20 ment of Defense is redesignated as the Office of Small
21 Business Programs:

22 (A) The Office of Small and Disadvantaged
23 Business Utilization of the Department of Defense.

24 (B) The Office of Small and Disadvantaged
25 Business Utilization of the Department of the Army.

1 (C) The Office of Small and Disadvantaged
2 Business Utilization of the Department of the Navy.

3 (D) The Office of Small and Disadvantaged
4 Business Utilization of the Department of the Air
5 Force.

6 (3) Any reference that is made in any law, regulation,
7 document, paper, or other record of the United States to
8 a position or office redesignated by paragraph (1) or (2)
9 shall be deemed to be a reference to the position or office
10 as so redesignated.

11 (b) DEPARTMENT OF DEFENSE POSITION AND OF-
12 FICE.—(1) Chapter 4 of title 10, United States Code, is
13 amended by inserting after section 133b the following new
14 section:

15 **“§ 133c. Director of Small Business Programs**

16 “(a) DIRECTOR.—There is a Director of Small Busi-
17 ness Programs in the Department of Defense. The Direc-
18 tor is appointed by the Secretary of Defense.

19 “(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The
20 Office of Small Business Programs of the Department of
21 Defense is the office that is established within the Office
22 of the Secretary of Defense under section 15(k) of the
23 Small Business Act (15 U.S.C. 644(k)). The Director of
24 Small Business Programs is the head of such office.

1 “(c) DUTIES AND POWERS.—(1) The Director of
2 Small Business Programs shall, subject to paragraph (2),
3 perform such duties regarding small business programs of
4 the Department of Defense, and shall exercise such powers
5 regarding those programs, as the Secretary of Defense
6 may prescribe.

7 “(2) Section 15(k) of the Small Business Act (15
8 U.S.C. 644(k)), except for the designations of the Director
9 and the Office, applies to the Director of Small Business
10 Programs.”.

11 (2) The table of sections at the beginning of such
12 chapter is amended by inserting after the item relating
13 to section 133b the following new item:

“133c. Director of Small Business Programs.”.

14 (c) DEPARTMENT OF THE ARMY POSITION AND OF-
15 FICE.—(1) Chapter 303 of title 10, United States Code,
16 is amended by adding at the end the following new section:
17 **“§ 3024. Director of Small Business Programs**

18 “(a) DIRECTOR.—There is a Director of Small Busi-
19 ness Programs in the Department of the Army. The Direc-
20 tor is appointed by the Secretary of the Army.

21 “(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The
22 Office of Small Business Programs of the Department of
23 the Army is the office that is established within the De-
24 partment of the Army under section 15(k) of the Small

1 Business Act (15 U.S.C. 644(k)). The Director of Small
2 Business Programs is the head of such office.

3 “(c) DUTIES AND POWERS.—(1) The Director of
4 Small Business Programs shall, subject to paragraph (2),
5 perform such duties regarding small business programs of
6 the Department of the Army, and shall exercise such pow-
7 ers regarding those programs, as the Secretary of the
8 Army may prescribe.

9 “(2) Section 15(k) of the Small Business Act (15
10 U.S.C. 644(k)), except for the designations of the Director
11 and the Office, applies to the Director of Small Business
12 Programs.”.

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

“3024. Director of Small Business Programs.”.

16 (d) DEPARTMENT OF THE NAVY POSITION AND OF-
17 FICE.—(1) Chapter 503 of title 10, United States Code,
18 is amended by adding at the end the following new section:

19 “§ 5028. **Director of Small Business Programs**

20 “(a) DIRECTOR.—There is a Director of Small Busi-
21 ness Programs in the Department of the Navy. The Direc-
22 tor is appointed by the Secretary of the Navy.

23 “(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The
24 Office of Small Business Programs of the Department of
25 the Navy is the office that is established within the De-

1 partment of the Navy under section 15(k) of the Small
2 Business Act (15 U.S.C. 644(k)). The Director of Small
3 Business Programs is the head of such office.

4 “(c) DUTIES AND POWERS.—(1) The Director of
5 Small Business Programs shall, subject to paragraph (2),
6 perform such duties regarding small business programs of
7 the Department of the Navy, and shall exercise such pow-
8 ers regarding those programs, as the Secretary of the
9 Navy may prescribe.

10 “(2) Section 15(k) of the Small Business Act (15
11 U.S.C. 644(k)), except for the designations of the Director
12 and the Office, applies to the Director of Small Business
13 Programs.”.

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

“5028. Director of Small Business Programs.”.

17 (d) DEPARTMENT OF THE AIR FORCE POSITION AND
18 OFFICE.—(1) Chapter 803 of title 10, United States
19 Code, is amended by adding at the end the following new
20 section:

21 **“§ 8024. Director of Small Business Programs**

22 “(a) DIRECTOR.—There is a Director of Small Busi-
23 ness Programs in the Department of the Air Force. The
24 Director is appointed by the Secretary of the Air Force.

1 “(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The
 2 Office of Small Business Programs of the Department of
 3 the Air Force is the office that is established within the
 4 Department of the Air Force under section 15(k) of the
 5 Small Business Act (15 U.S.C. 644(k)). The Director of
 6 Small Business Programs is the head of such office.

7 “(c) DUTIES AND POWERS.—(1) The Director of
 8 Small Business Programs shall, subject to paragraph (2),
 9 perform such duties regarding small business programs of
 10 the Department of the Air Force, and shall exercise such
 11 powers regarding those programs, as the Secretary of the
 12 Air Force may prescribe.

13 “(2) Section 15(k) of the Small Business Act (15
 14 U.S.C. 644(k)), except for the designations of the Director
 15 and the Office, applies to the Director of Small Business
 16 Programs.”.

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

“8024. Director of Small Business Programs.”.

20 **SEC. 913. LEADERSHIP POSITIONS FOR THE NAVAL POST-**
 21 **GRADUATE SCHOOL.**

22 (a) DESIGNATION OF PRESIDENT.—(1) The position
 23 of Superintendent of the Naval Postgraduate School is re-
 24 designated as President of the Naval Postgraduate School.

1 (2) Any reference to the Superintendent of the Naval
2 Postgraduate School in any law, rule, regulation, docu-
3 ment, record, or other paper of the United States shall
4 be deemed to be a reference to the President of the Naval
5 Postgraduate School.

6 (3) Sections 7042, 7044, 7048(a), and 7049(e) of
7 title 10, United States Code, are amended by striking
8 “Superintendent” each place it appears and inserting
9 “President”.

10 (4) The heading of section 7042 of such title is
11 amended by striking “**Superintendent;**” in the section
12 heading and inserting “**President;**”.

13 (b) PROVOST AND ACADEMIC DEAN.—(1) The posi-
14 tion of Academic Dean of the Naval Postgraduate School
15 is redesignated as Provost and Academic Dean of the
16 Naval Postgraduate School.

17 (2) Any reference to the Academic Dean of the Naval
18 Postgraduate School in any law, rule, regulation, docu-
19 ment, record, or other paper of the United States shall
20 be deemed to be a reference to the Provost and Academic
21 Dean of the Naval Postgraduate School.

22 (3)(A) Subsection (a) of section 7043 of title 10,
23 United States Code, is amended to read as follows:

24 “(a) There is at the Naval Postgraduate School the
25 single civilian position of Provost and Academic Dean. The

1 Provost and Academic Dean shall be appointed, to serve
 2 for periods of not more than five years, by the Secretary
 3 of the Navy. Before making an appointment to the posi-
 4 tion of Provost and Academic Dean, the Secretary shall
 5 consult with the Board of Advisors for the Naval Post-
 6 graduate School and consider any recommendation of the
 7 leadership and faculty of the Naval Postgraduate School
 8 regarding an appointment to the position.”.

9 (B) The heading of such section is amended to read
 10 as follows:

11 **“§ 7043. Provost and Academic Dean”.**

12 (4) Sections 7043(b) and 7081(a) of title 10, United
 13 States Code, are amended by striking “Academic Dean”
 14 and inserting “Provost and Academic Dean”.

15 (5) Section 5102(c)(10) of title 5, United States
 16 Code, is amended by striking “Academic Dean of the Post-
 17 graduate School of the Naval Academy” and inserting
 18 “Provost and Academic Dean of the Naval Postgraduate
 19 School”.

20 (c) CLERICAL AMENDMENTS.—The table of sections
 21 at the beginning of chapter 605 of such title 10, United
 22 States Code, is amended by striking the items related to
 23 sections 7042 and 7043 and inserting the following new
 24 items:

“7042. President: assistants.

“7043. Provost and Academic Dean.”.

1 **SEC. 914. UNITED STATES MILITARY CANCER INSTITUTE.**

2 (a) ESTABLISHMENT.—Chapter 104 of title 10,
3 United States Code, is amended by adding at the end the
4 following new section:

5 **“§ 2117. United States Military Cancer Institute**

6 “(a) ESTABLISHMENT.—(1) There is a United States
7 Military Cancer Institute in the University. The Director
8 of the United States Military Cancer Institute is the head
9 of the Institute.

10 “(2) The Institute is composed of clinical and basic
11 scientists in the Department of Defense who have an ex-
12 pertise in research, patient care, and education relating
13 to oncology and who meet applicable criteria for participa-
14 tion in the Institute.

15 “(3) The components of the Institute include military
16 treatment and research facilities that meet applicable cri-
17 teria and are designated as affiliates of the Institute.

18 “(b) RESEARCH.—(1) The Director of the United
19 States Military Cancer Institute shall carry out research
20 studies on the following:

21 “(A) The epidemiological features of cancer, in-
22 cluding assessments of the carcinogenic effect of ge-
23 netic and environmental factors, and of disparities in
24 health, inherent or common among populations of
25 various ethnic origins.

1 “(B) The prevention and early detection of can-
2 cer.

3 “(C) Basic, translational, and clinical investiga-
4 tion matters relating to the matters described in
5 subparagraphs (A) and (B).

6 “(2) The research studies under paragraph (1) shall
7 include complementary research on oncologic nursing.

8 “(c) COLLABORATIVE RESEARCH.—The Director of
9 the United States Military Cancer Institute shall carry out
10 the research studies under subsection (b) in collaboration
11 with other cancer research organizations and entities se-
12 lected by the Institute for purposes of the research studies.

13 “(d) ANNUAL REPORT.—(1) Promptly after the end
14 of each fiscal year, the Director of the United States Mili-
15 tary Cancer Institute shall submit to the President of the
16 University a report on the results of the research studies
17 carried out under subsection (b).

18 “(2) Not later than 60 days after receiving the an-
19 nual report under paragraph (1), the President of the Uni-
20 versity shall transmit such report to the Secretary of De-
21 fense and to Congress.”.

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

“2117. United States Military Cancer Institute.”.

1 **SEC. 915. AUTHORITIES OF THE JUDGE ADVOCATES GEN-**
2 **ERAL.**

3 (a) DEPARTMENT OF THE ARMY.—(1) Section
4 3019(b) of title 10, United States Code, is amended by
5 striking “The General Counsel” and inserting “Subject to
6 sections 806 and 3037 of this title, the General Counsel”.

7 (2)(A) Section 3037 of such title is amended to read
8 as follows:

9 **“§ 3037. Judge Advocate General, Assistant Judge Ad-**
10 **vocate General: appointment; duties**

11 “(a) POSITION OF JUDGE ADVOCATE GENERAL.—
12 There is a Judge Advocate General in the Army, who is
13 appointed by the President, by and with the advice and
14 consent of the Senate, from officers of the Judge Advocate
15 General’s Corps. The term of office is four years, but may
16 be sooner terminated or extended by the President. The
17 Judge Advocate General, while so serving, has the grade
18 of lieutenant general.

19 “(b) APPOINTMENT.—The Judge Advocate General
20 of the Army shall be appointed from those officers who
21 at the time of appointment are members of the bar of a
22 Federal court or the highest court of a State or Territory,
23 and who have had at least eight years of experience in
24 legal duties as commissioned officers.

25 “(c) DUTIES.—The Judge Advocate General, in addi-
26 tion to other duties prescribed by law—

1 “(1) is the legal adviser of the Secretary of the
2 Army, the Chief of Staff of the Army, and the Army
3 Staff, and of all offices and agencies of the Depart-
4 ment of the Army;

5 “(2) shall direct and supervise the members of
6 the Judge Advocate General’s Corps and civilian at-
7 torneys employed by the Department of the Army
8 (other than those assigned or detailed to the Office
9 of the General Counsel of the Army) in the perform-
10 ance of their duties;

11 “(3) shall direct and supervise the performance
12 of duties under chapter 47 of this title (the Uniform
13 Code of Military Justice) by any member of the
14 Army;

15 “(4) shall receive, revise, and have recorded the
16 proceedings of courts of inquiry and military com-
17 missions; and

18 “(5) shall perform such other legal duties as
19 may be directed by the Secretary of the Army.

20 “(d) POSITION OF ASSISTANT JUDGE ADVOCATE
21 GENERAL.—There is an Assistant Judge Advocate Gen-
22 eral in the Army, who is appointed by the President, by
23 and with the advice and consent of the Senate, from offi-
24 cers of the Army who have the qualifications prescribed
25 in subsection (b) for the Judge Advocate General. The

1 term of office of the Assistant Judge Advocate General
 2 is four years, but may be sooner terminated or extended
 3 by the President. An officer appointed as Assistant Judge
 4 Advocate General who holds a lower regular grade shall
 5 be appointed in the regular grade of major general.

6 “(e) APPOINTMENTS RECOMMENDED BY SELECTION
 7 BOARDS.—Under regulations prescribed by the Secretary
 8 of Defense, the Secretary of the Army, in selecting an offi-
 9 cer for recommendation to the President under subsection
 10 (a) for appointment as the Judge Advocate General or
 11 under subsection (d) for appointment as the Assistant
 12 Judge Advocate General, shall ensure that the officer se-
 13 lected is recommended by a board of officers that, insofar
 14 as practicable, is subject to the procedures applicable to
 15 selection boards convened under chapter 36 of this title.”.

16 (B) The item relating to such section in the table of
 17 sections at the beginning of chapter 305 of such title is
 18 amended to read as follows:

“3037. Judge Advocate General, Assistant Judge Advocate General: appoint-
 ment; duties.”.

19 (b) DEPARTMENT OF THE NAVY.—(1) Section
 20 5019(b) of title 10, United States Code, is amended by
 21 striking “The General Counsel” and inserting “Subject to
 22 sections 806 and 5148 of this title, the General Counsel”.

23 (2) Section 5148 of such title is amended—

1 (A) in subsection (b), by striking the fourth
2 sentence and inserting the following: “The Judge
3 Advocate General, while so serving, has the grade of
4 vice admiral or lieutenant general, as appropriate.”;
5 and

6 (B) by striking subsection (d) and inserting the
7 following:

8 “(d) The Judge Advocate General, in addition to
9 other duties prescribed by law—

10 “(1) is the legal adviser of the Secretary of the
11 Navy, the Chief of Naval Operations, and all offices,
12 bureaus, and agencies of the Department of the
13 Navy;

14 “(2) shall direct and supervise the judge advo-
15 cates of the Navy and the Marine Corps and civilian
16 attorneys employed by the Department of the Navy
17 (other than those assigned or detailed to the Office
18 of the General Counsel of the Navy) in the perform-
19 ance of their duties;

20 “(3) shall direct and supervise the performance
21 of duties under chapter 47 of this title (the Uniform
22 Code of Military Justice) by any member of the
23 Navy or Marine Corps;

1 “(4) shall receive, revise, and have recorded the
2 proceedings of courts of inquiry and military com-
3 missions; and

4 “(5) shall perform such other legal duties as
5 may be directed by the Secretary of the Navy.”.

6 (c) DEPARTMENT OF THE AIR FORCE.—(1) Section
7 8019(b) of title 10, United States Code, is amended by
8 striking “The General Counsel” and inserting “Subject to
9 sections 806 and 8037 of this title, the General Counsel”.

10 (2) Section 8037 of such title is amended—

11 (A) in subsection (a), by striking the third sen-
12 tence and inserting the following: “The Judge Advo-
13 cate General, while so serving, has the grade of lieu-
14 tenant general.”; and

15 (B) in subsection (c)—

16 (i) by striking “General shall,” in the mat-
17 ter preceding paragraph (1) and inserting
18 “General,”;

19 (ii) by redesignating paragraphs (1) and
20 (2) as paragraphs (4) and (5), respectively,
21 and, in each such paragraph, by inserting
22 “shall” before the first word; and

23 (iii) by inserting after paragraph (1) the
24 following new paragraphs:

1 “(1) is the legal adviser of the Secretary of the
2 Air Force, the Chief of Staff of the Air Force, and
3 the Air Staff, and of all offices and agencies of the
4 Department of the Air Force;

5 “(2) shall direct and supervise the members of
6 the Air Force designated as judge advocates and ci-
7 vilian attorneys employed by the Department of the
8 Air Force (other than those assigned or detailed to
9 the Office of the General Counsel of the Air Force)
10 in the performance of their duties;

11 “(3) shall direct and supervise the performance
12 of duties under chapter 47 of this title (the Uniform
13 Code of Military Justice) by any member of the Air
14 Force;”.

15 (d) EXCLUSION FROM LIMITATION ON GENERAL
16 AND FLAG OFFICER DISTRIBUTION.—Section 525(b) of
17 title 10, United States Code, is amended by adding at the
18 end the following new paragraph:

19 “(9) An officer while serving as the Judge Advocate
20 General of the Army, the Judge Advocate General of the
21 Navy, or the Judge Advocate General of the Air Force
22 is in addition to the number that would otherwise be per-
23 mitted for that officer’s armed force for officers serving
24 on active duty in grades above major general or rear admi-
25 ral under paragraph (1) or (2), as the case may be.”.

1 **TITLE X—GENERAL PROVISIONS**

2 **Subtitle A—Financial Matters**

3 **SEC. 1001. TRANSFER AUTHORITY.**

4 (a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.—**

5 (1) Upon determination by the Secretary of Defense that
6 such action is necessary in the national interest, the Sec-
7 retary may transfer amounts of authorizations made avail-
8 able to the Department of Defense in this division for fis-
9 cal year 2005 between any such authorizations for that
10 fiscal year (or any subdivisions thereof). Amounts of au-
11 thorizations so transferred shall be merged with and be
12 available for the same purposes as the authorization to
13 which transferred.

14 (2) The total amount of authorizations that the Sec-
15 retary may transfer under the authority of this section
16 may not exceed \$3,000,000,000.

17 (b) **LIMITATIONS.—**The authority provided by this
18 section to transfer authorizations—

19 (1) may only be used to provide authority for
20 items that have a higher priority than the items
21 from which authority is transferred; and

22 (2) may not be used to provide authority for an
23 item that has been denied authorization by Con-
24 gress.

1 (c) EFFECT ON AUTHORIZATION AMOUNTS.—A
2 transfer made from one account to another under the au-
3 thority of this section shall be deemed to increase the
4 amount authorized for the account to which the amount
5 is transferred by an amount equal to the amount trans-
6 ferred.

7 (d) NOTICE TO CONGRESS.—The Secretary shall
8 promptly notify Congress of each transfer made under
9 subsection (a).

10 **SEC. 1002. UNITED STATES CONTRIBUTION TO NATO COM-**
11 **MON-FUNDED BUDGETS IN FISCAL YEAR 2005.**

12 (a) FISCAL YEAR 2005 LIMITATION.—The total
13 amount contributed by the Secretary of Defense in fiscal
14 year 2005 for the common-funded budgets of NATO may
15 be any amount up to, but not in excess of, the amount
16 specified in subsection (b) (rather than the maximum
17 amount that would otherwise be applicable to those con-
18 tributions under the fiscal year 1998 baseline limitation).

19 (b) TOTAL AMOUNT.—The amount of the limitation
20 applicable under subsection (a) is the sum of the following:

21 (1) The amounts of unexpended balances, as of
22 the end of fiscal year 2004, of funds appropriated
23 for fiscal years before fiscal year 2005 for payments
24 for those budgets.

25 (2) The amount specified in subsection (c)(1).

1 (3) The amount specified in subsection (c)(2).

2 (4) The total amount of the contributions au-
3 thorized to be made under section 2501.

4 (c) AUTHORIZED AMOUNTS.—Amounts authorized to
5 be appropriated by titles II and III of this Act are avail-
6 able for contributions for the common-funded budgets of
7 NATO as follows:

8 (1) Of the amount provided in section 201(1),
9 \$756,000 for the Civil Budget.

10 (2) Of the amount provided in section 301(1),
11 \$222,492,000 for the Military Budget.

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

13 (1) COMMON-FUNDED BUDGETS OF NATO.—
14 The term “common-funded budgets of NATO”
15 means the Military Budget, the Security Investment
16 Program, and the Civil Budget of the North Atlantic
17 Treaty Organization (and any successor or addi-
18 tional account or program of NATO).

19 (2) FISCAL YEAR 1998 BASELINE LIMITATION.—
20 The term “fiscal year 1998 baseline limitation”
21 means the maximum annual amount of Department
22 of Defense contributions for common-funded budgets
23 of NATO that is set forth as the annual limitation
24 in section 3(2)(C)(ii) of the resolution of the Senate
25 giving the advice and consent of the Senate to the

1 ratification of the Protocols to the North Atlantic
2 Treaty of 1949 on the Accession of Poland, Hun-
3 gary, and the Czech Republic (as defined in section
4 4(7) of that resolution), approved by the Senate on
5 April 30, 1998.

6 **SEC. 1003. REDUCTION IN OVERALL AUTHORIZATION DUE**
7 **TO INFLATION SAVINGS.**

8 (a) REDUCTION.—The total amount authorized to be
9 appropriated by titles I, II, and III is the amount equal
10 to the sum of the individual authorizations in those titles
11 reduced by \$1,670,000,000.

12 (b) SOURCE OF SAVINGS.—Reductions required in
13 order to comply with subsection (a) shall be derived from
14 savings resulting from lower-than-expected inflation as a
15 result of the annual review of the budget conducted by
16 the Office of Management and Budget.

17 (c) ALLOCATION OF REDUCTION.—The Secretary of
18 Defense shall allocate the reduction required by subsection
19 (a) among the accounts in titles I, II, and III to reflect
20 the extent to which net inflation savings are available in
21 those accounts.

22 **SEC. 1004. DEFENSE BUSINESS SYSTEMS INVESTMENT MAN-**
23 **AGEMENT.**

24 (a) REQUIREMENT FOR DEFENSE BUSINESS ENTER-
25 PRISE ARCHITECTURE AND TRANSITION PLAN.—(1) Not

1 later than September 30, 2005, the Secretary of Defense
2 shall develop—

3 (A) a defense business enterprise architecture
4 covering all defense business systems of the Depart-
5 ment of Defense and the functions and activities
6 supported by such systems that—

7 (i) is sufficiently defined to effectively
8 guide, constrain, and permit implementation of
9 interoperable business system solutions; and

10 (ii) is consistent with the applicable poli-
11 cies and procedures prescribed by the Director
12 of the Office of Management and Budget; and

13 (B) a transition plan for implementing the de-
14 fense business enterprise architecture.

15 (2) In carrying out paragraph (1), the Secretary shall
16 act through the Defense Business Systems Management
17 Committee established under subsection (h).

18 (b) COMPOSITION OF ENTERPRISE ARCHITEC-
19 TURE.—The defense business enterprise architecture de-
20 veloped under subsection (a)(1)(A) shall include the fol-
21 lowing:

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

1 (A) comply with all Federal accounting, fi-
2 nancial management, and reporting require-
3 ments;

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

7 (C) integrate budget, accounting, and pro-
8 gram information and systems; and

9 (D) provide for the systematic measure-
10 ment of performance, including the ability to
11 produce timely, relevant, and reliable cost infor-
12 mation.

13 (2) Policies, procedures, data standards, and
14 system interface requirements that are to apply uni-
15 formly throughout the Department of Defense.

16 (c) COMPOSITION OF TRANSITION PLAN.—(1) The
17 transition plan developed under subsection (a)(1)(B) shall
18 include the following:

19 (A) The acquisition strategy for new systems
20 that are expected to be needed to complete the de-
21 fense business enterprise architecture.

22 (B) A listing of the defense business systems as
23 of December 2, 2002 (known as “legacy systems”),
24 that will not be part of the objective defense busi-
25 ness enterprise architecture, together with the sched-

1 ule for terminating those legacy systems that pro-
2 vides for reducing the use of those legacy systems in
3 phases.

4 (C) A listing of the legacy systems (referred to
5 in subparagraph (B)) that will be a part of the ob-
6 jective defense business system, together with a
7 strategy for making the modifications to those sys-
8 tems that will be needed to ensure that such systems
9 comply with the defense business enterprise architec-
10 ture.

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

15 (d) CONDITIONS FOR USE OF FUNDS FOR DEFENSE
16 BUSINESS SYSTEM MODERNIZATION.—(1) After Sep-
17 tember 30, 2005, an officer or employee of the United
18 States may not obligate or expend an amount in excess
19 of \$1,000,000 for a defense business system moderniza-
20 tion unless the Secretary of Defense or the official dele-
21 gated authority for the system covered by such moderniza-
22 tion under subsection (e) has determined in writing that
23 such defense business system modernization—

1 (A) is consistent with the defense business en-
2 terprise architecture and transition plan developed
3 under subsection (a); or

4 (B) is necessary to—

5 (i) achieve a critical national security capa-
6 bility or address a critical requirement in an
7 area such as safety or security; or

8 (ii) prevent a significant adverse effect on
9 a project that is needed to achieve an essential
10 capability, taking into consideration the alter-
11 native solutions for preventing such adverse ef-
12 fect.

13 (2) A violation of paragraph (1) is a violation of sec-
14 tion 1341(a)(1)(A) of title 31, United States Code.

15 (e) ACCOUNTABILITY FOR DEFENSE BUSINESS SYS-
16 TEMS.—The Secretary of Defense shall delegate authority
17 for the planning, design, acquisition, development, deploy-
18 ment, operation, maintenance, modernization, and over-
19 sight of defense business systems as follows:

20 (1) To the Under Secretary of Defense for Ac-
21 quisition, Technology, and Logistics, for—

22 (A) defense business systems the primary
23 purpose of which is to support acquisition ac-
24 tivities in the Department of Defense;

1 (B) defense business systems the primary
2 purpose of which is to support logistics activi-
3 ties in the Department of Defense; and

4 (C) defense business systems the primary
5 purpose of which is to support installations and
6 environment activities in the Department of De-
7 fense.

8 (2) To the Under Secretary of Defense (Comp-
9 troller) and Chief Financial Officer, for—

10 (A) defense business systems the primary
11 purpose of which is to support financial man-
12 agement activities in the Department of De-
13 fense; and

14 (B) defense business systems the primary
15 purpose of which is to support strategic plan-
16 ning and budgeting activities in the Department
17 of Defense.

18 (3) To the Under Secretary of Defense for Per-
19 sonnel and Readiness, for defense business systems
20 the primary purpose of which is to support human
21 resource management activities in the Department
22 of Defense.

23 (4) To the Assistant Secretary of Defense (Net-
24 works and Information Integration) and Chief Infor-
25 mation Officer, for defense business systems the pri-

1 mary purpose of which is to support information
2 technology infrastructure and information assurance
3 activities of the Department of Defense.

4 (5) To the Deputy Secretary of Defense or an
5 Under Secretary of Defense, as designated by the
6 Secretary of Defense, for defense business systems
7 the primary purpose of which is to support any ac-
8 tivity of the Department of Defense not described in
9 another paragraph of this subsection.

10 (f) DEFENSE BUSINESS SYSTEM INVESTMENT RE-
11 VIEW.—(1) The Secretary of Defense shall require each
12 official to whom authority is delegated under subsection
13 (e) to establish an investment review process to review the
14 planning, design, acquisition, development, deployment,
15 operation, maintenance, and modernization of all defense
16 business systems covered by the authority so delegated to
17 that official, and to analyze project cost benefits and risks
18 of such systems.

19 (2) Each investment review process established under
20 paragraph (1) shall be consistent with the requirements
21 of section 11312 of title 40, United States Code, and shall
22 include the following features:

23 (A) An investment review board composed of
24 appropriate officials from among the Armed Forces,

1 combatant commands, the Joint Staff, and Defense
2 Agencies.

3 (B) Review and approval, by the investment re-
4 view board, of each defense business system as an
5 investment before the obligation or expenditure of
6 funds on such system.

7 (C) Periodic review of each defense business
8 system investment not less often than annually.

9 (D) Use of threshold criteria to ensure that
10 each defense business system investment, and that
11 accountability for each defense business system in-
12 vestment, is reviewed at a level of review within the
13 Department of Defense that is appropriate for the
14 scope, complexity, and cost of the investment.

15 (E) Procedures for making determinations in
16 accordance with the requirements of subsection (d).

17 (g) DEFENSE BUSINESS SYSTEMS BUDGET EX-
18 HIBIT.—For each budget for a fiscal year after fiscal year
19 2005 that the President submits to Congress under sec-
20 tion 1105(a) of title 31, United States Code, the Secretary
21 of Defense shall include in the documentation on major
22 functional category 050 (National Defense) that the Sec-
23 retary submits to the congressional defense committees in
24 support of such budget a defense business systems budget
25 exhibit that includes the following information:

1 (1) Identification of each defense business sys-
2 tem for which funding is proposed in that budget.

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

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

8 (B) funds for business systems moderniza-
9 tion, identified for each specific appropriation.

10 (3) For each such system, identification of the
11 official to whom authority for such system is dele-
12 gated under subsection (e).

13 (4) For each such system, a description of each
14 determination made under subsection (d) with re-
15 gard to such system.

16 (h) DEFENSE BUSINESS SYSTEM MANAGEMENT
17 COMMITTEE.—(1) The Secretary of Defense shall estab-
18 lish a Defense Business Systems Management Executive
19 Committee. The Committee shall be composed of the fol-
20 lowing members:

21 (A) The Deputy Secretary of Defense, who shall
22 be the chairman of the Committee.

23 (B) The Under Secretary of Defense for Acqui-
24 sition, Logistics, and Technology.

1 (C) The Under Secretary of Defense for Per-
2 sonnel and Readiness.

3 (D) The Under Secretary of Defense (Comp-
4 troller) and Chief Financial Officer.

5 (E) The Assistant Secretary of Defense (Net-
6 works and Information Integration) and Chief Infor-
7 mation Officer.

8 (F) The Secretaries of the military depart-
9 ments.

10 (G) The heads of the Defense Agencies.

11 (H) Any personnel assigned to the Joint Staff,
12 personnel assigned to combatant commands, or other
13 Department of Defense personnel that the Secretary
14 of Defense designates to serve on the Committee.

15 (2) In addition to any other duties assigned to the
16 Committee by the Secretary of Defense, the Committee
17 shall have the following duties:

18 (A) To submit to the Secretary recommended
19 policies and procedures that the Committee con-
20 siders necessary to effectively integrate compliance
21 with the requirements of this section into all busi-
22 ness activities and any transformation, reform, reor-
23 ganization, or process improvement initiatives under-
24 taken within the Department of Defense.

1 (B) To review and approve defense business
2 systems modernization plans, including review and
3 approval of any major update of the defense busi-
4 ness enterprise architecture.

5 (C) To coordinate defense business system mod-
6 ernization initiatives to maximize benefits and mini-
7 mize costs for the Department of Defense.

8 (D) To ensure that funds are not obligated for
9 the modernization of any defense business system in
10 violation of subsection (d)(1).

11 (E) To periodically report to the Secretary on
12 the status of defense business system modernization
13 efforts.

14 (i) DEFINITIONS.—In this section:

15 (1) The term “defense business system” means
16 any information system (except a national security
17 system, as defined in section 2315 of title 10,
18 United States Code) that is operated by, for, or on
19 behalf of the Department of Defense to support
20 business activities such as acquisition, financial
21 management, logistics, strategic planning and budg-
22 eting, installations and environment, and human re-
23 source management.

1 (2) The term “enterprise architecture” has the
2 meaning given that term in section 3601(4) of title
3 44, United States Code.

4 (3) The terms “information system” and “in-
5 formation technology” have the meanings given
6 those terms in section 11101 of title 40, United
7 States Code.

8 (4) The term “modernization”, with respect to
9 a defense business system, means the acquisition or
10 development of a new defense business system or
11 any significant modification or enhancement of an
12 existing defense business system (other than as nec-
13 essary to maintain current services).

14 (j) ANNUAL REPORT.—Not later than March 15 of
15 2005 and each year thereafter through 2009, the Sec-
16 retary of Defense shall submit to the congressional defense
17 committees a report on the progress made by the Depart-
18 ment of Defense in implementing the defense business en-
19 terprise architecture and transition plan required by this
20 section. Each report shall include, at a minimum, the fol-
21 lowing information:

22 (1) A description of the specific actions taken
23 and planned to be taken to implement the defense
24 business enterprise architecture and the transition
25 plan.

1 (2) Specific milestones, performance measures,
2 and resource commitments for such actions.

3 (k) **COMPTROLLER GENERAL ASSESSMENT.**—Not
4 later than 60 days after the date on which the Secretary
5 of Defense approves the defense business enterprise archi-
6 tecture and transition plan developed under subsection
7 (a), and again each year not later than 60 days after the
8 submission of the annual report under subsection (j), the
9 Comptroller General shall submit to the congressional de-
10 fense committees an assessment of the extent to which the
11 actions taken by the Department comply with the require-
12 ments of this section.

13 (l) **RELATIONSHIP TO OTHER LAW.**—Nothing in this
14 section shall be construed to modify or affect the applica-
15 bility of the restrictions and requirements provided in sec-
16 tion 8088 of the Department of Defense Appropriations
17 Act, 2003 (Public Law 107–248; 116 Stat. 1556).

18 (m) **REPEAL OF SUPERSEDED LAW.**—Section 1004
19 of the Bob Stump National Defense Authorization Act for
20 Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2629;
21 10 U.S.C. 113 note) is repealed.

1 **SEC. 1005. UNIFORM FUNDING AND MANAGEMENT OF**
2 **SERVICE ACADEMY ATHLETIC AND REC-**
3 **REATIONAL EXTRACURRICULAR PROGRAMS.**

4 (a) UNITED STATES MILITARY ACADEMY.—(1)
5 Chapter 403 of title 10, United States Code, is amended
6 by adding at the end the following new section:

7 **“§ 4359. Athletic and recreational extracurricular**
8 **programs: uniform funding**

9 “The authority and conditions provided in section
10 2494 of this title shall also apply to any athletic or rec-
11 reational extracurricular program of the Academy that—

12 “(1) is not considered a morale, welfare, or
13 recreation program referred to in such section;

14 “(2) is funded out of appropriated funds;

15 “(3) is supported by a supplemental mission
16 nonappropriated fund instrumentality; and

17 “(4) is not operated as a private organization.”.

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

“4359. Athletic and recreational extracurricular programs: uniform funding.”.

20 (b) UNITED STATES NAVAL ACADEMY.—(1) Chapter
21 603 of title 10, United States Code, is amended by adding
22 at the end the following new section:

1 **“§ 6978. Athletic and recreational extracurricular**
 2 **programs: uniform funding**

3 “The authority and conditions provided in section
 4 2494 of this title shall also apply to any athletic or rec-
 5 reational extracurricular program of the Naval Academy
 6 that—

7 “(1) is not considered a morale, welfare, or
 8 recreation program referred to in such section;

9 “(2) is funded out of appropriated funds;

10 “(3) is supported by a supplemental mission
 11 nonappropriated fund instrumentality; and

12 “(4) is not operated as a private organization.”.

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

“6978. Athletic and recreational extracurricular programs: uniform funding.”.

15 (c) UNITED STATES AIR FORCE ACADEMY.—(1)
 16 Chapter 903 of title 10, United States Code, is amended
 17 by adding at the end the following new section:

18 **“§ 9358. Athletic and recreational extracurricular**
 19 **programs: uniform funding**

20 “The authority and conditions provided in section
 21 2494 of this title shall also apply to any athletic or rec-
 22 reational extracurricular program of the Academy that—

23 “(1) is not considered a morale, welfare, or
 24 recreation program referred to in such section;

25 “(2) is funded out of appropriated funds;

1 “(3) is supported by a supplemental mission
2 nonappropriated fund instrumentality; and

3 “(4) is not operated as a private organization.”.

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

“9358. Athletic and recreational extracurricular programs: uniform funding.”.

6 (d) **EFFECTIVE DATE AND APPLICABILITY.**—This
7 section and the amendments made by this section shall
8 take effect on October 1, 2004, and shall apply with re-
9 spect to funds appropriated for fiscal years beginning on
10 or after such date.

11 **SEC. 1006. AUTHORIZATION OF APPROPRIATIONS FOR A**
12 **CONTINGENT EMERGENCY RESERVE FUND**
13 **FOR OPERATIONS IN IRAQ AND AFGHANI-**
14 **STAN.**

15 (a) **AUTHORIZATION OF SUPPLEMENTAL APPROPRIA-**
16 **TIONS.**—In addition to any other amounts authorized to
17 be appropriated by this Act, there is hereby authorized
18 to be appropriated for the Department of Defense for fis-
19 cal year 2005, subject to subsections (b) and (c),
20 \$25,000,000,000, to be available only for activities in sup-
21 port of operations in Iraq and Afghanistan.

22 (b) **SPECIFIC AMOUNTS.**—Of the amount authorized
23 to be appropriated under subsection (a), funds are author-
24 ized to be appropriated in amounts for purposes as follows:

1 (1) For the Army for operation and mainte-
2 nance, \$14,500,000,000.

3 (2) For the Navy for operation and mainte-
4 nance, \$1,000,000,000.

5 (3) For the Marine Corps for operation and
6 maintenance, \$2,000,000,000.

7 (4) For the Air Force for operation and mainte-
8 nance, \$1,000,000,000.

9 (5) For operation and maintenance, Defense-
10 wide activities, \$2,000,000,000.

11 (6) For military personnel, \$2,000,000,000.

12 (7) An additional amount of \$2,500,000,000 to
13 be available for transfer to—

14 (A) operation and maintenance accounts;

15 (B) military personnel accounts;

16 (C) research, development, test, and eval-
17 uation accounts;

18 (D) procurement accounts;

19 (E) classified programs; and

20 (F) Coast Guard operating expenses.

21 (c) AUTHORIZATION CONTINGENT ON BUDGET RE-
22 QUEST.—The authorization of appropriations in sub-
23 section (a) shall be effective only to the extent that a budg-
24 et request for all or part of the amount authorized to be
25 appropriated under such subsection for the purposes set

1 forth in such subsection is transmitted by the President
2 to Congress after the date of the enactment of this Act
3 and includes a designation of the requested amount as an
4 emergency and essential to support activities in Iraq and
5 Afghanistan.

6 (d) TRANSFER AUTHORITY.—(1) Of the amount au-
7 thorized to be appropriated under subsection (b)(7) for
8 transfer, no transfer may be made until the Secretary of
9 Defense consults with the Chairmen and Ranking Mem-
10 bers of the congressional defense committees and then no-
11 tifies such committees in writing not later than five days
12 before the transfer is made.

13 (2) The transfer authority provided under this section
14 is in addition to any other transfer authority available to
15 the Department of Defense.

16 (e) MONTHLY REPORT.—The Secretary of Defense
17 shall submit to the congressional defense committees each
18 month a report on the use of funds authorized to be appro-
19 priated under this section. The report for a month shall
20 include in a separate display for each of Iraq and Afghani-
21 stan, the activity for which the funds were used, the pur-
22 pose for which the funds were used, the source of the
23 funds used to carry out that activity, and the account to
24 which those expenditures were charged.

1 **Subtitle B—Naval Vessels and**
2 **Shipyards**

3 **SEC. 1011. EXCHANGE AND SALE OF OBSOLETE NAVY SERV-**
4 **ICE CRAFT AND BOATS.**

5 (a) IN GENERAL.—Chapter 633 of title 10, United
6 States Code, is amended by inserting after section 7309
7 the following new section:

8 **“§ 7309a. Service craft and boats: exchange or sale**

9 “(a) IN GENERAL.—The Secretary of the Navy may,
10 in acquiring personal property under section 503 of title
11 40, exchange or sell obsolete Navy service craft or boats
12 that are similar to such personal property and apply the
13 exchange allowance or proceeds of sale in whole or part
14 payment for such personal property.

15 “(b) USE OF PROCEEDS FOR COST OF PREPARATION
16 OF SALE.—In selling a service craft or boat under sub-
17 section (a), the Secretary shall obtain, to the extent prac-
18 ticable, amounts necessary to recover the full costs, wheth-
19 er direct or indirect, incurred by the Navy in preparing
20 the service craft or boat for sale, including costs of towing,
21 storage, defueling, removal and disposal of hazardous
22 wastes, environmental surveys to determine the presence
23 of regulated materials containing polychlorinated biphenyl
24 (PCB), removal and disposal of such materials, and other
25 related costs.

1 “(c) TREATMENT OF ADDITIONAL PROCEEDS.—(1)
2 Any proceeds of sale of a service craft or boat under sub-
3 section (a) that are in addition to amounts necessary to
4 recover the costs of the preparation of sale of the service
5 craft or boat under subsection (b) shall be deposited in
6 an account in the Treasury established for purposes of this
7 section.

8 “(2) Amounts in the account under paragraph (1)
9 shall be available to the Secretary for the payment of costs
10 associated with the preparation of obsolete Navy service
11 craft or boats for sale or exchange under this section.
12 Amounts in the account shall be available for that purpose
13 without fiscal year limitation.

14 “(3) The Secretary shall, on a periodic basis, deposit
15 amounts in the account under paragraph (1) that are in
16 excess of the amounts otherwise utilized under paragraph
17 (2) in the general Treasury as miscellaneous receipts, or
18 in another account in the Treasury as otherwise provided
19 by law.

20 “(d) INAPPLICABILITY OF CERTAIN PROCUREMENT
21 REQUIREMENTS.—Notwithstanding section 503(b)(3) of
22 title 40, section 3709 of the Revised Statutes (41 U.S.C.
23 5) shall not apply to the exchange or sale of service craft
24 or boats under this section.

1 “(e) REGULATIONS.—The Secretary may prescribe
2 regulations relating to the exercise of authority under this
3 section.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of such chapter is amended by inserting
6 after the item relating to section 7309 the following new
7 item:

“7309a. Service craft and boats: exchange or sale.”.

8 **SEC. 1012. LIMITATION ON DISPOSAL OF OBSOLETE NAVAL**
9 **VESSEL.**

10 The Secretary of the Navy may not dispose of the
11 decommissioned destroyer ex-Edson (DD-946) before Oc-
12 tober 1, 2007, to an entity that is not a nonprofit organi-
13 zation unless the Secretary first determines that there is
14 no nonprofit organization that meets the criteria for dona-
15 tion of that vessel under section 7306(a)(3) of title 10,
16 United States Code.

17 **SEC. 1013. AWARD OF CONTRACTS FOR SHIP DISMANTLING**
18 **ON NET COST BASIS.**

19 (a) IN GENERAL.—Chapter 633 of title 10, United
20 States Code, is amended by inserting after section 7305
21 the following new section:

22 **“§ 7305a. Contracts for ship dismantling: award on**
23 **net cost basis**

24 “(a) AUTHORITY.—Notwithstanding any other provi-
25 sion of law, the Secretary of the Navy may use net cost

1 as a criterion in the selection of an offeror for award of
2 a contract for the dismantling of one or more ships strick-
3 en from the Naval Vessel Register and may accord that
4 criterion such weight in the offer evaluation process as the
5 Secretary considers appropriate and specifies in the solici-
6 tation of offers for that contract.

7 “(b) COMPETITION.—In exercising the authority
8 under this section, the Secretary shall to the maximum
9 extent practicable use the competitive procedure or com-
10 bination of competitive procedures that is best suited
11 under the circumstances.

12 “(c) RETENTION OF PROCEEDS.—When the Sec-
13 retary of the Navy awards a ship dismantling contract on
14 a net cost basis, the contractor may retain the proceeds
15 from the sale of scrap and reusable items from the vessel
16 being dismantled.

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

18 “(1) The term ‘net cost’, with respect to a con-
19 tract for the dismantling of a ship, means the
20 amount equal to the excess of—

21 “(A) the amount of the contractor’s gross
22 cost of performance of the contract, over

23 “(B) the estimated value of scrap and re-
24 usable items that the contractor removes from
25 the ship during performance of the contract, as

1 stated in the contractor's offer for such con-
2 tract.

3 “(2) The term ‘scrap’ means personal property
4 that has no value except for its basic material con-
5 tent.

6 “(3) The term ‘reusable item’, with respect to
7 a ship, means any demilitarized component or re-
8 movable portion of the ship or the ship's equipment
9 that the Navy has identified as excess to its needs
10 but which has potential resale value on the open
11 market.”.

12 (b) **CLERICAL AMENDMENT.**—The table of sections
13 at the beginning of such chapter is amended by inserting
14 after the item relating to section 7305 the following new
15 item:

“7305a. Contracts for ship dismantling: award on net cost basis.”.

16 **SEC. 1014. AUTHORITY TO TRANSFER NAVAL VESSELS TO**
17 **CERTAIN FOREIGN COUNTRIES.**

18 (a) **AUTHORITY TO TRANSFER BY GRANT.**—The Sec-
19 retary of the Navy is authorized to transfer vessels to for-
20 eign countries on a grant basis under section 516 of the
21 Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as fol-
22 lows:

23 (1) **CHILE.**—To the Government of Chile, the
24 **SPRUANCE** class destroyer **O'BANNON** (DD
25 987).

1 (2) PORTUGAL.—To the Government of Por-
2 tugal, the OLIVER HAZARD PERRY class guided
3 missile frigate GEORGE PHILIP (FFG 12) and
4 the OLIVER HAZARD PERRY class guided missile
5 frigate USS SIDES (FFG 14).

6 (b) AUTHORITY TO TRANSFER BY SALE.—The Sec-
7 retary of the Navy is authorized to transfer vessels to for-
8 eign countries on a sale basis under section 21 of the Arms
9 Export Control Act (22 U.S.C. 2761) as follows:

10 (1) TAIWAN.—To the Taipei Economic and
11 Cultural Representative Office in the United States
12 (which is the Taiwan instrumentality designated
13 pursuant to section 10(a) of the Taiwan Relations
14 Act), the ANCHORAGE class dock landing ship
15 ANCHORAGE (LSD 36).

16 (2) CHILE.—To the Government of Chile, the
17 SPRUANCE class destroyer FLETCHER (DD
18 992).

19 (c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF
20 TRANSFERRED EXCESS DEFENSE ARTICLES.—The value
21 of a vessel transferred to another country on a grant basis
22 under section 516 of the Foreign Assistance Act of 1961
23 (22 U.S.C. 2321j) pursuant to authority provided by sub-
24 section (a) shall not be counted for the purposes of sub-
25 section (g) of that section in the aggregate value of excess

1 defense articles transferred to countries under that section
2 in any fiscal year.

3 (d) COSTS OF TRANSFERS.—Any expense incurred by
4 the United States in connection with a transfer authorized
5 by this section shall be charged to the recipient (notwith-
6 standing section 516(e)(1) of the Foreign Assistance Act
7 of 1961 (22 U.S.C. 2321j(e)(1)).

8 (e) REPAIR AND REFURBISHMENT IN UNITED
9 STATES SHIPYARDS.—To the maximum extent prac-
10 ticable, the President shall require, as a condition of the
11 transfer of a vessel under this section, that the country
12 to which the vessel is transferred have such repair or re-
13 furbishment of the vessel as is needed, before the vessel
14 joins the naval forces of that country, performed at a ship-
15 yard located in the United States, including a United
16 States Navy shipyard.

17 (f) EXPIRATION OF AUTHORITY.— The authority to
18 transfer a vessel under this section shall expire at the end
19 of the two-year period beginning on the date of the enact-
20 ment of this Act.

21 **Subtitle C—Reports**

22 **SEC. 1021. REPORT ON CONTRACTOR SECURITY IN IRAQ.**

23 (a) REPORT REQUIRED.—(1) Not later than 90 days
24 after the date of the enactment of this Act, the Secretary
25 of Defense shall submit a report on contractor security

1 in Iraq to the congressional defense committees. The re-
2 port shall include, at a minimum—

3 (A) information on the security of contractor
4 employees in Iraq, as described in subsection (b);

5 (B) information on contract security personnel
6 in Iraq, as described in subsection (c); and

7 (C) any recommended actions that the Sec-
8 retary considers appropriate to enhance contractor
9 security in Iraq.

10 (2) The information included in the report shall be
11 current as of September 30, 2004.

12 (b) SECURITY OF CONTRACTOR EMPLOYEES IN
13 IRAQ.—The report under subsection (a) shall include in-
14 formation on contractor employees in Iraq, as follows:

15 (1) The number of contractor employees in each
16 of the following categories of nationals:

17 (A) Nationals of the United States.

18 (B) Nationals of Iraq.

19 (C) Nationals of states other than the
20 United States and Iraq.

21 (2) For each of the categories of nationals list-
22 ed in paragraph (1), the number of casualties among
23 contractor employees on and after May 1, 2003.

24 (c) CONTRACT SECURITY PERSONNEL.—The report
25 required by subsection (a) shall include information on

1 contract security personnel of a contractor in Iraq, as fol-
2 lows:

3 (1) The number of contract security personnel
4 engaged in providing security services to personnel
5 or facilities in each of the following categories:

6 (A) Personnel or facilities of the United
7 States Government or the Coalition Provisional
8 Authority.

9 (B) Personnel or facilities of the Iraqi Gov-
10 ernment.

11 (C) Personnel or facilities of a contractor
12 or subcontractor.

13 (2) For each of the categories of nationals list-
14 ed in subsection (b)(1), the following information:

15 (A) The number of contract security per-
16 sonnel.

17 (B) The range of annual rates of pay of
18 the contract security personnel.

19 (C) The number of casualties among the
20 contract security personnel on and after May 1,
21 2003.

22 (3) The number, types, and sources of weapons
23 that contract security personnel are authorized to
24 possess in each of the following categories:

25 (A) Weapons provided by coalition forces.

1 (B) Weapons supplied by the contractor.

2 (C) Weapons supplied by other sources.

3 (4) The extent to which contract security per-
4 sonnel are equipped with other critical equipment,
5 such as body armor, armored vehicles, secure com-
6 munications, and friend-foe identification.

7 (5) An assessment of the extent to which con-
8 tract security personnel have been engaged by hos-
9 tile fire on and after May 1, 2003.

10 (d) COORDINATION.—In the preparation of the report
11 under this section, the Secretary of Defense shall coordi-
12 nate with the heads of any other departments and agencies
13 of the Federal Government that are affected by the per-
14 formance of Federal Government contracts by contractor
15 personnel in Iraq.

16 (e) ADDITIONAL CONGRESSIONAL RECIPIENTS.—In
17 addition to submitting the report on contractor security
18 under this section to the congressional defense commit-
19 tees, the Secretary of Defense shall also submit the report
20 to any other committees of Congress that the Secretary
21 determines appropriate to receive such report taking into
22 consideration the requirements of the Federal Government
23 that contractor personnel in Iraq are engaged in satis-
24 fying.

1 (f) FORMS OF REPORT.—The report required by this
2 section shall be submitted in classified and unclassified
3 forms.

4 (g) DEFINITIONS.—In this section:

5 (1) The term “contract security personnel” in-
6 cludes employees of a contractor or subcontractor
7 who, under a covered contract, provide security serv-
8 ices in Iraq to—

9 (A) personnel or facilities of the United
10 States Government or the Coalition Provisional
11 Authority;

12 (B) personnel or facilities of the Iraqi Gov-
13 ernment; or

14 (C) personnel or facilities of a contractor.

15 (2) The term “covered contract”—

16 (A) means a contract entered into by an
17 agency of the United States Government or by
18 the Coalition Provisional Authority for the pro-
19 curement of products or services to be provided
20 in Iraq, regardless of the source of the funding
21 for such procurement; and

22 (B) includes a subcontract under such a
23 contract, regardless of the source of the funding
24 for such procurement.

1 (3) The term “national of the United States”
2 has the meaning given such term in section 101(22)
3 of the Immigration and Nationality Act (8 U.S.C.
4 1101(22)).

5 (4) The term “national”, except as provided in
6 paragraph (3), has the meaning given such term in
7 section 101(21) of such Act.

8 **SEC. 1022. TECHNICAL CORRECTION TO REFERENCE TO**
9 **CERTAIN ANNUAL REPORTS.**

10 Section 2474(f)(2) of title 10, United States Code,
11 is amended by striking “section 2466(e)” and inserting
12 “section 2466(d)”.

13 **SEC. 1023. STUDY OF ESTABLISHMENT OF MOBILIZATION**
14 **STATION AT CAMP RIPLEY NATIONAL GUARD**
15 **TRAINING CENTER, LITTLE FALLS, MIN-**
16 **NESOTA.**

17 Not later than 120 days after the date of the enact-
18 ment of this Act, the Secretary of Defense shall carry out
19 and complete a study on the feasibility of the use of Camp
20 Ripley National Guard Training Center, Little Falls, Min-
21 nesota, as a mobilization station for reserve components
22 ordered to active duty under provisions of law referred to
23 in section 101(a)(13)(B) of title 10, United States Code.
24 The study shall include consideration of the actions nec-
25 essary to establish such center as a mobilization station.

1 **SEC. 1024. REPORT ON TRAINING PROVIDED TO MEMBERS**
2 **OF THE ARMED FORCES TO PREPARE FOR**
3 **POST-CONFLICT OPERATIONS.**

4 (a) STUDY ON TRAINING.—The Secretary of Defense
5 shall conduct a study to determine the extent to which
6 members of the Armed Forces assigned to duty in support
7 of contingency operations receive training in preparation
8 for post-conflict operations and to evaluate the quality of
9 such training.

10 (b) MATTERS TO BE INCLUDED IN STUDY.—As part
11 of the study under subsection (a), the Secretary shall spe-
12 cifically evaluate the following:

13 (1) The doctrine, training, and leader-develop-
14 ment system necessary to enable members of the
15 Armed Forces to successfully operate in post-conflict
16 operations.

17 (2) The adequacy of the curricula at military
18 educational facilities to ensure that the Armed
19 Forces has a cadre of members skilled in post-con-
20 flict duties, including a familiarity with applicable
21 foreign languages and foreign cultures.

22 (3) The training time and resources available to
23 members and units of the Armed Forces to develop
24 cultural awareness about ethnic backgrounds and re-
25 ligious beliefs of the people living in areas in which
26 post-conflict operations are likely to occur.

1 (4) The adequacy of training transformation to
2 emphasize post-conflict operations, including inter-
3 agency coordination in support of combatant com-
4 manders.

5 (c) REPORT ON STUDY.—Not later than May 1,
6 2005, the Secretary shall submit to the Committee on
7 Armed Services of the Senate and the Committee on
8 Armed Services of the House of Representatives a report
9 on the result of the study conducted under this section.

10 **SEC. 1025. REPORT ON AVAILABILITY OF POTENTIAL OVER-**

11 **LAND BALLISTIC MISSILE DEFENSE TEST**

12 **RANGES.**

13 The Secretary of Defense shall submit to Congress
14 a report assessing the availability to the Department of
15 Defense of potential ballistic missile defense test ranges
16 for overland intercept flight tests of defenses against bal-
17 listic missile systems with a range of 750 to 1,500 kilo-
18 meters.

19 **SEC. 1026. OPERATION OF THE FEDERAL VOTING ASSIST-**

20 **ANCE PROGRAM AND THE MILITARY POSTAL**

21 **SYSTEM.**

22 (a) REQUIREMENT FOR REPORTS.—(1) The Sec-
23 retary of Defense shall submit to Congress two reports
24 on the actions that the Secretary has taken to ensure
25 that—

1 (A) the Federal Voting Assistance Program
2 functions effectively to support absentee voting by
3 members of the Armed Forces deployed outside the
4 United States in support of Operation Iraqi Free-
5 dom, Operation Enduring Freedom, and all other
6 contingency operations; and

7 (B) the military postal system functions effec-
8 tively to support the morale of the personnel de-
9 scribed in subparagraph (A) and absentee voting by
10 such members.

11 (2)(A) The first report under paragraph (1) shall be
12 submitted not later than 60 days after the date of the
13 enactment of this Act.

14 (B) The second report under paragraph (1) shall be
15 submitted not later than 60 days after the date on which
16 the first report is submitted under that paragraph.

17 (3) In this subsection, the term “Federal Voting As-
18 sistance Program” means the program referred to in sec-
19 tion 1566(b)(1) of title 10, United States Code.

20 (b) IMPLEMENTATION OF RECOMMENDED POSTAL
21 SYSTEM IMPROVEMENTS.—Not later than 90 days after
22 the date of the enactment of this Act, the Secretary of
23 Defense shall submit to Congress a report setting forth—

1 (1) the actions taken to implement the rec-
2 ommendations of the Military Postal Service Agency
3 Task Force, dated 28 August 2000; and

4 (2) in the case of each such recommendation
5 not implemented or not fully implemented as of the
6 date of report, the reasons for not implementing or
7 not fully implementing such recommendation, as the
8 case may be.

9 **SEC. 1027. REPORT ON ESTABLISHING NATIONAL CENTERS**
10 **OF EXCELLENCE FOR UNMANNED AERIAL**
11 **AND GROUND VEHICLES.**

12 (a) **REPORT REQUIRED.**—Not later than 120 days
13 after the date of the enactment of this Act, the Secretary
14 of Defense shall submit to the congressional defense com-
15 mittees a report on the need for one or more national cen-
16 ters of excellence for unmanned aerial and ground vehi-
17 cles.

18 (b) **GOAL OF CENTERS.**—The goal of the centers cov-
19 ered by the report is to promote interservice cooperation
20 and coordination in the following areas:

21 (1) Development of joint doctrine for the orga-
22 nization, training, and use of unmanned aerial and
23 ground vehicles.

1 (2) Joint research, development, test, and eval-
2 uation, and joint procurement of unmanned aerial
3 and ground vehicles.

4 (3) Identification and coordination, in conjunc-
5 tion with the private sector and academia, of the fu-
6 ture development of unmanned aerial and ground ve-
7 hicles.

8 (4) Monitoring of the development and utiliza-
9 tion of unmanned aerial and ground vehicles in other
10 nations for both military and non-military purposes.

11 (5) The providing of joint training and profes-
12 sional development opportunities in the use and op-
13 eration of unmanned aerial and ground vehicles to
14 military personnel of all ranks and levels of responsi-
15 bility.

16 (c) REPORT REQUIREMENTS.—The report shall in-
17 clude, at a minimum, the following:

18 (1) A list of facilities where the Defense De-
19 partment currently conducts or plans to conduct re-
20 search, development, and testing activities on un-
21 manned aerial and ground vehicles.

22 (2) A list of facilities where the Department of
23 Defense currently deploys or has committed to de-
24 ploying unmanned aerial or ground vehicles.

1 (3) The extent to which existing facilities de-
2 scribed in paragraphs (1) and (2) have sufficient un-
3 used capacity and expertise to research, develop,
4 test, and deploy the current and next generations of
5 unmanned aerial and ground vehicles and to provide
6 for the development of doctrine on the use and
7 training of operators of such vehicles.

8 (4) The extent to which efficiencies on research,
9 development, testing, and deployment of existing or
10 future unmanned aerial and ground vehicles can be
11 achieved through consolidation at one or more na-
12 tional centers of excellence for unmanned aerial and
13 ground vehicles.

14 (5) A list of potential locations for national cen-
15 ters of excellence.

16 (d) CONSIDERATIONS.—In determining the potential
17 locations for the national centers of excellence under this
18 section, the Secretary of Defense shall take into consider-
19 ation existing Air Force facilities that have—

20 (1) a workforce of skilled personnel;

21 (2) existing capacity of runways and other fa-
22 cilities to accommodate the research, testing, and de-
23 ployment of current and future unmanned aerial ve-
24 hicles; and

1 (3) minimal restrictions on the research, devel-
2 opment, and testing of unmanned aerial vehicles re-
3 sulting from proximity to large population centers or
4 airspace heavily utilized by commercial flights.

5 **SEC. 1028. REPORT ON POST-MAJOR COMBAT OPERATIONS**
6 **PHASE OF OPERATION IRAQI FREEDOM.**

7 (a) REPORT REQUIRED.—(1) Not later than March
8 31, 2005, the Secretary of Defense shall submit to the
9 congressional defense committees a report on the conduct
10 of military operations during the post-major combat oper-
11 ations phase of Operation Iraqi Freedom.

12 (2) The report shall be prepared in consultation with
13 the Chairman of the Joint Chiefs of Staff, the Commander
14 of the United States Central Command, and such other
15 officials as the Secretary considers appropriate.

16 (b) CONTENT.—(1) The report shall include a discus-
17 sion of the matters described in paragraph (2), with a par-
18 ticular emphasis on accomplishments and shortcomings
19 and on near-term and long-term corrective actions to ad-
20 dress such shortcomings.

21 (2) The matters to be discussed in the report are as
22 follows:

23 (A) The military and political objectives of the
24 international coalition conducting the post-major
25 combat operations phase of Operation Iraqi Free-

1 dom, and the military strategy selected to achieve
2 such objectives, together with an assessment of the
3 execution of the military strategy.

4 (B) The mobilization process for the reserve
5 components of the Armed Forces, including the
6 timeliness of notification, training and certification,
7 and subsequent demobilization.

8 (C) The use and performance of major items of
9 United States military equipment, weapon systems,
10 and munitions (including non-lethal weapons and
11 munitions, items classified under special access pro-
12 cedures, and items drawn from prepositioned stocks)
13 and any expected effects of the experience with the
14 use and performance of such items on the doctrinal
15 and tactical employment of such items and on plans
16 for continuing the acquisition of such items.

17 (D) Any additional requirements for military
18 equipment, weapon systems, munitions, force struc-
19 ture, or other capability identified during the post-
20 major combat operations phase of Operation Iraqi
21 Freedom, including changes in type or quantity for
22 future operations.

23 (E) The effectiveness of joint air operations, to-
24 gether with an assessment of the effectiveness of—

1 (i) the employment of close air support;

2 and

3 (ii) attack helicopter operations.

4 (F) The use of special operations forces, includ-
5 ing operational and intelligence uses.

6 (G) The scope of logistics support, including
7 support to and from other nations and from inter-
8 national organizations and organizations and indi-
9 viduals from the private sector in Iraq.

10 (H) The incidents of accidental fratricide, in-
11 cluding a discussion of the effectiveness of the track-
12 ing of friendly forces and the use of the combat
13 identification systems in mitigating friendly fire inci-
14 dents.

15 (I) The adequacy of spectrum and bandwidth to
16 transmit information to operational forces and as-
17 sets, including unmanned aerial vehicles, ground ve-
18 hicles, and individual soldiers.

19 (J) The effectiveness of strategic, operational,
20 and tactical information operations, including psy-
21 chological operations and assets, organization, and
22 doctrine related to civil affairs, in achieving estab-
23 lished objectives, together with a description of tech-
24 nological and other restrictions on the use of infor-
25 mation operations capabilities.

1 (K) The readiness of the reserve component
2 forces used in the post-major combat operations
3 phase of Operation Iraqi Freedom, including an as-
4 sessment of the success of the reserve component
5 forces in accomplishing their missions.

6 (L) The adequacy of intelligence support during
7 the post-major combat operations phase of Oper-
8 ation Iraqi Freedom, including the adequacy of such
9 support in searches for weapons of mass destruction.

10 (M) The rapid insertion and integration, if any,
11 of developmental but mission-essential equipment,
12 organizations, or procedures during the post-major
13 combat operations phase of Operation Iraqi Free-
14 dom.

15 (N) A description of the coordination, commu-
16 nication, and unity of effort between the Armed
17 Forces, the Coalition Provisional Authority, other
18 United States government agencies and organiza-
19 tions, nongovernmental organizations, and political,
20 security, and nongovernmental organizations of Iraq,
21 including an assessment of the effectiveness of such
22 efforts.

23 (O) The adequacy of training for military units
24 once deployed to the United States Central Com-
25 mand, including training for changes in unit mission

1 and continuation training for high-intensity conflict
2 missions.

3 (P) An estimate of the funding required to re-
4 turn or replace equipment used to date in Operation
5 Iraqi Freedom, including equipment in prepositioned
6 stocks, to mission-ready condition.

7 (Q) A description of military civil affairs and
8 reconstruction efforts, including through the Com-
9 manders Emergency Response Program, and an as-
10 sessment of the effectiveness of such efforts and pro-
11 grams.

12 (R) The adequacy of the requirements deter-
13 mination and acquisition processes, acquisition, and
14 distribution of force protection equipment, including
15 personal gear, vehicles, helicopters, and defense de-
16 vices.

17 (S) The most critical lessons learned that could
18 lead to long-term doctrinal, organizational, and tech-
19 nological changes, and the probable effects that an
20 implementation of those changes would have on cur-
21 rent visions, goals, and plans for transformation of
22 the Armed Forces or the Department of Defense.

23 (T) The planning for and implementation of
24 morale, welfare, and recreation programs for de-
25 ployed forces and support to dependents, including

1 rest and recuperation programs and personal com-
2 munication benefits such as telephone, mail, and
3 email services, including an assessment of the effec-
4 tiveness of such programs.

5 (U) An analysis of force rotation plans, includ-
6 ing individual personnel and unit rotations, differing
7 deployment lengths, and in-theater equipment repair
8 and leave behinds.

9 (c) FORM OF REPORT.—The report shall be sub-
10 mitted in unclassified form, but may include a classified
11 annex.

12 (d) POST-MAJOR COMBAT OPERATIONS PHASE OF
13 OPERATION IRAQI FREEDOM DEFINED.—In this section,
14 the term “post-major combat operations phase of Oper-
15 ation Iraqi Freedom” means the period of Operation Iraqi
16 Freedom beginning on May 2, 2003, and ending on De-
17 cember 31, 2004.

18 **SEC. 1029. COMPTROLLER GENERAL ANALYSIS OF USE OF**
19 **TRANSITIONAL BENEFIT CORPORATIONS IN**
20 **CONNECTION WITH COMPETITIVE SOURCING**
21 **OF PERFORMANCE OF DEPARTMENT OF DE-**
22 **FENSE ACTIVITIES AND FUNCTIONS.**

23 (a) REQUIREMENT FOR ANALYSIS.—Not later than
24 February 1, 2005, the Comptroller General shall submit
25 to Congress an analysis of the potential for use of transi-

1 tional benefit corporations in connection with competitive
2 sourcing of the performance of activities and functions of
3 the Department of Defense.

4 (b) SPECIFIC ISSUES.—The analysis under this sec-
5 tion shall—

6 (1) address the capabilities of transitional ben-
7 efit corporations—

8 (A) to preserve human capital and surge
9 capability;

10 (B) to promote economic development and
11 job creation;

12 (C) to generate cost savings; and

13 (D) to generate efficiencies that are com-
14 parable to or exceed the efficiencies that result
15 from competitive sourcing carried out by the
16 Department of Defense under the procedures
17 applicable to competitive sourcing by the De-
18 partment of Defense; and

19 (2) identify areas within the Department of De-
20 fense in which transitional benefit corporations could
21 be used to add value, reduce costs, and provide op-
22 portunities for beneficial use of employees and other
23 resources that are displaced by competitive sourcing
24 of the performance of activities and functions of the
25 Department of Defense.

1 (d) TRANSITIONAL BENEFIT CORPORATION DE-
2 FINED.—In this section, the term “transitional benefit
3 corporation” means a corporation that facilitates the
4 transfer of designated (usually underutilized) real estate,
5 equipment, intellectual property, or other assets of the
6 United States to the private sector in a process that en-
7 ables employees of the United States in positions associ-
8 ated with the use of such assets to retain eligibility for
9 Federal employee benefits and to continue to accrue those
10 benefits.

11 **SEC. 1029A. COMPTROLLER GENERAL STUDY OF PRO-**
12 **GRAMS OF TRANSITION ASSISTANCE FOR**
13 **PERSONNEL SEPARATING FROM THE ARMED**
14 **FORCES.**

15 (a) REQUIREMENT FOR STUDY.—The Comptroller
16 General shall carry out a study of the programs of the
17 Department of Defense and other departments and agen-
18 cies of the Federal Government under which transition as-
19 sistance is provided to personnel who are separating from
20 active duty service in the Armed Forces.

21 (b) REPORT.—Not later than 180 days after the date
22 of the enactment of this Act, the Comptroller General shall
23 submit a report on the results of the study to the Commit-
24 tees on Armed Services of the Senate and the House of

1 Representatives. The report shall include the following
2 matters:

3 (1) Regarding the transition assistance pro-
4 grams under section 1142 and 1144 of title 10,
5 United States Code—

6 (A) an analysis of the extent to which such
7 programs are meeting the current needs of
8 members of the Armed Forces as such per-
9 sonnel are discharged or released from active
10 duty, including—

11 (i) a discussion of the original pur-
12 poses of the programs;

13 (ii) a discussion of how the programs
14 are currently being administered in rela-
15 tionship to those purposes; and

16 (iii) an assessment of whether the
17 programs are adequate to meet the current
18 needs of members of the reserve compo-
19 nents, including the National Guard; and

20 (B) any recommendations that the Comp-
21 troller General considers appropriate for im-
22 proving such programs, including any rec-
23 ommendation regarding whether participation
24 by members of the Armed Forces in such pro-
25 grams should be required.

1 (2) An analysis of the differences, if any,
2 among the Armed Forces and among the commands
3 of military installations of the Armed Forces regard-
4 ing how transition assistance is being provided under
5 the transition assistance programs, together with
6 any recommendations that the Comptroller General
7 considers appropriate—

8 (A) to achieve uniformity in the provision
9 of assistance under such programs; and

10 (B) to ensure that the transition assistance
11 is provided under such programs to members of
12 the Armed Forces who are being separated at
13 medical facilities of the uniformed services or
14 Department of Veterans Affairs medical centers
15 and to Armed Forces personnel on a temporary
16 disability retired list under section 1202 or
17 1205 of title 10, United States Code.

18 (3) An analysis of the relationship of Depart-
19 ment of Defense transition assistance programs to
20 the transition assistance programs of the Depart-
21 ment of Veterans Affairs and the Department of
22 Labor, including the relationship of the benefits de-
23 livery at discharge program carried out jointly by
24 the Department of Defense and the Department of

1 Veterans Affairs to the other transition assistance
2 programs.

3 (4) The rates of participation of Armed Forces
4 personnel in the transition assistance programs, to-
5 gether with any recommendations that the Comp-
6 troller General considers appropriate to increase
7 such participation rates, including any revisions of
8 such programs that could result in increased partici-
9 pation.

10 (5) An assessment of whether the transition as-
11 sistance information provided to Armed Forces per-
12 sonnel omits transition information that would be
13 beneficial to such personnel, including an assessment
14 of the extent to which information is provided under
15 the transition assistance programs regarding partici-
16 pation in Federal Government procurement opportu-
17 nities available at prime contract and subcontract
18 levels to veterans with service-connected disabilities
19 and other veterans, together with any recommenda-
20 tions that the Comptroller General considers appro-
21 priate regarding additional information that should
22 be provided and any other recommendations that the
23 Comptroller General considers appropriate for en-
24 hancing the provision of counseling on such procure-
25 ment opportunities.

1 (6) An assessment of the extent to which rep-
2 representatives of military service organizations and
3 veterans' service organizations are afforded opportu-
4 nities to participate, and do participate, in
5 preseparation briefings under transition assistance
6 programs, together with any recommendations that
7 the Comptroller General considers appropriate re-
8 garding how representatives of such organizations
9 could better be used to disseminate transition assist-
10 ance information and provide preseparation coun-
11 seling to Armed Forces personnel, including per-
12 sonnel of the reserve components who are being re-
13 leased from active duty for continuation of service in
14 the reserve components.

15 (7) An analysis of the use of post-deployment
16 and predischARGE health screenings, together with
17 any recommendations that the Comptroller General
18 considers appropriate regarding whether and how to
19 integrate the health screening process and the tran-
20 sition assistance programs into a single, coordinated
21 preseparation program for Armed Forces personnel
22 being discharged or released from active duty.

23 (8) An analysis of the processes of the Armed
24 Forces for conducting physical examinations of

1 members of the Armed Forces in connection with
2 discharge and release from active duty, including—

3 (A) how post-deployment questionnaires
4 are used;

5 (B) the extent to which Armed Forces per-
6 sonnel waive the physical examinations; and

7 (C) how, and the extent to which, Armed
8 Forces personnel are referred for followup
9 health care.

10 (9) A discussion of the current process by
11 which mental health screenings are conducted, fol-
12 lowup mental health care is provided for, and serv-
13 ices are provided in cases of post-traumatic stress
14 disorder and related conditions for members of the
15 Armed Forces in connection with discharge and re-
16 lease from active duty, together with—

17 (A) for each of the Armed Forces, the pro-
18 grams that are in place to identify and treat
19 cases of post-traumatic stress disorder and re-
20 lated conditions; and

21 (B) for persons returning from deploy-
22 ments in connection with Operation Enduring
23 Freedom and Operation Iraqi Freedom—

24 (i) the number of persons treated as
25 a result of such screenings; and

1 (ii) the types of interventions.

2 (c) ACQUISITION OF SUPPORTING INFORMATION.—In
3 carrying out the study under this section, the Comptroller
4 General shall seek to obtain views from the following per-
5 sons:

6 (1) The Secretary of Defense and the Secre-
7 taries of the military departments.

8 (2) The Secretary of Veterans Affairs.

9 (3) The Secretary of Labor.

10 (4) Armed Forces personnel who have received
11 transition assistance under the programs covered by
12 the study and Armed Forces personnel who have de-
13 clined to accept transition assistance offered under
14 such programs.

15 (5) Representatives of military service organiza-
16 tions and representatives of veterans' service organi-
17 zations.

18 (6) Persons having expertise in health care (in-
19 cluding mental health care) provided under the De-
20 fense Health Program, including Department of De-
21 fense personnel, Department of Veterans Affairs
22 personnel, and persons in the private sector.

1 **SEC. 1029B. STUDY ON COORDINATION OF JOB TRAINING**
2 **AND CERTIFICATION STANDARDS.**

3 (a) **REQUIREMENT FOR STUDY.**—The Secretary of
4 Defense and the Secretary of Labor shall jointly carry out
5 a study to determine ways to coordinate the standards ap-
6 plied by the Armed Forces for the training and certifi-
7 cation of members of the Armed Forces in military occu-
8 pational specialties with the standards that are applied to
9 corresponding civilian occupations by occupational licens-
10 ing or certification agencies of governments and occupa-
11 tional certification agencies in the private sector.

12 (b) **REPORT.**—Not later than 180 days after the date
13 of the enactment of this Act, the Secretary of Labor shall
14 submit a joint report on the results of the study under
15 subsection (a) to Congress.

16 **SEC. 1029C. CONTENT OF PRESEPARATION COUNSELING**
17 **FOR PERSONNEL SEPARATING FROM ACTIVE**
18 **DUTY SERVICE.**

19 Section 1142 of title 10, United States Code, is
20 amended—

21 (1) by adding at the end of subsection (b) the
22 following new paragraph:

23 “(11) Information on participation in Federal
24 Government procurement opportunities that are
25 available at the prime contract level and at sub-

1 contract levels to veterans with service-connected
2 disabilities and other veterans.”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(d) REQUIREMENTS RELATING TO COUNSELING ON
6 PROCUREMENT OPPORTUNITIES.—(1) For the counseling
7 under subsection (b)(11), the Secretary concerned may
8 provide for participation of representatives of the Sec-
9 retary of Veterans Affairs, representatives of the Adminis-
10 trator of the Small Business Administration, representa-
11 tives of other appropriate executive agencies, and rep-
12 resentatives of Veterans’ Business Outreach Centers and
13 Small Business Development Centers.

14 “(2) The Secretary concerned may provide for the
15 counseling under paragraph (11) of subsection (b) to be
16 offered at medical centers of the Department of Veterans
17 Affairs as well as the medical care facilities of the uni-
18 formed services and other facilities at which the counseling
19 on the other matters required under such subsection is
20 offered. The access of representatives described in para-
21 graph (1) to a member of the armed forces to provide such
22 counseling shall be subject to the consent of that mem-
23 ber.”.

1 **SEC. 1029D. PERIODIC DETAILED ACCOUNTING FOR OPER-**
2 **ATIONS OF THE GLOBAL WAR ON TER-**
3 **RORISM.**

4 (a) QUARTERLY ACCOUNTING.—Not later than 45
5 days after the end of each quarter of a year, the Secretary
6 of Defense shall submit to the congressional defense com-
7 mittees, for such quarter for each operation described in
8 subsection (b), a full accounting of all costs incurred for
9 such operation during such quarter and all amounts ex-
10 pended during such quarter for such operation, and the
11 purposes for which such costs were incurred and such
12 amounts were expended.

13 (b) OPERATIONS COVERED.—The operations referred
14 to in subsection (a) are as follows:

15 (1) Operation Iraqi Freedom.

16 (2) Operation Enduring Freedom.

17 (3) Operation Noble Eagle.

18 (4) Any other operation that the President des-
19 ignates as being an operation of the Global War on
20 Terrorism.

21 (c) REQUIREMENT FOR COMPREHENSIVENESS.—For
22 the purpose of providing a full and complete accounting
23 of the costs and expenditures under subsection (a) for op-
24 erations described in subsection (b), the Secretary shall
25 account in the quarterly submission under subsection (a)

1 for all costs and expenditures that are reasonably attrib-
2 utable to such operations, including personnel costs.

3 **SEC. 1029E. REPORT ON THE STABILIZATION OF IRAQ.**

4 Not later than 120 days after the date of the enact-
5 ment of this Act, the President shall submit to the con-
6 gressional defense committees an unclassified report (with
7 classified annex, if necessary) on the strategy of the
8 United States and coalition forces for stabilizing Iraq. The
9 report shall contain a detailed explanation of the strategy,
10 together with the following information:

11 (1) A description of the efforts of the President
12 to work with the United Nations to provide support
13 for, and assistance to, the transitional government in
14 Iraq, and, in particular, the efforts of the President
15 to negotiate and secure adoption by the United Na-
16 tions Security Council of Resolution 1546.

17 (2) A description of the efforts of the President
18 to continue to work with North Atlantic Treaty Or-
19 ganization (NATO) member states and non-NATO
20 member states to provide support for and augment
21 coalition forces, including efforts, as determined by
22 the United States combatant commander, in con-
23 sultation with coalition forces, to evaluate the—

1 (A) the current military forces of the
2 NATO and non-NATO member countries de-
3 ployed to Iraq;

4 (B) the current police forces of NATO and
5 non-NATO member countries deployed to Iraq;
6 and

7 (C) the current financial resources of
8 NATO and non-NATO member countries pro-
9 vided for the stabilization and reconstruction of
10 Iraq.

11 (3) As a result of the efforts described in para-
12 graph (2)—

13 (A) a list of the NATO and non-NATO
14 member countries that have deployed and will
15 have agreed to deploy military and police forces;
16 and

17 (B) with respect to each such country, the
18 schedule and level of such deployments.

19 (4) A description of the efforts of the United
20 States and coalition forces to develop the domestic
21 security forces of Iraq for the internal security and
22 external defense of Iraq, including a description of
23 United States plans to recruit, train, equip, and de-
24 ploy domestic security forces of Iraq.

1 (5) As a result of the efforts described in para-
2 graph (4)—

3 (A) the number of members of the security
4 forces of Iraq that have been recruited;

5 (B) the number of members of the security
6 forces of Iraq that have been trained; and

7 (C) the number of members of the security
8 forces of Iraq that have been deployed.

9 (6) A description of the efforts of the United
10 States and coalition forces to assist in the recon-
11 struction of essential infrastructure of Iraq, includ-
12 ing the oil industry, electricity generation, roads,
13 schools, and hospitals.

14 (7) A description of the efforts of the United
15 States, coalition partners, and relevant international
16 agencies to assist in the development of political in-
17 stitutions and prepare for democratic elections in
18 Iraq.

19 (8) A description of the obstacles, including fi-
20 nancial, technical, logistic, personnel, political, and
21 other obstacles, faced by NATO in generating and
22 deploying military forces out of theater to locations
23 such as Iraq.

1 **SEC. 1029F. REPORTS ON MATTERS RELATING TO DETAIN-**
2 **MENT OF PRISONERS BY THE DEPARTMENT**
3 **OF DEFENSE.**

4 (a) **REPORTS REQUIRED.**—Not later than 90 days
5 after the date of the enactment of this Act, and annually
6 thereafter, the Secretary of Defense shall submit to the
7 appropriate committees of Congress a report on the popu-
8 lation of persons held by the Department of Defense for
9 more than 45 days and on the facilities in which such per-
10 sons are held.

11 (b) **REPORT ELEMENTS.**—Each report under sub-
12 section (a) shall include the following:

13 (1) General information on the foreign national
14 detainees in the custody of the Department on the
15 date of such report, including the following:

16 (A) The best estimate of the Department
17 of the number of the total number of detainees
18 in the custody of the Department as of the date
19 of such report.

20 (B) The countries in which such detainees
21 were detained, and the number of detainees de-
22 tained in each such country.

23 (C) The best estimate of the Department
24 of the total number of detainees released from
25 the custody of the Department during the one-
26 year period ending on the date of such report.

1 (2) For each foreign national detained and
2 registered with the National Detainee Reporting
3 Center by the Department on the date of such
4 report the following:

5 (A) The Internment Serial Number or
6 other appropriate identification number.

7 (B) The nationality, if available.

8 (C) The place at which taken into custody,
9 if available.

10 (D) The circumstances of being taken into
11 custody, if available.

12 (E) The place of detention.

13 (F) The current length of detention.

14 (G) A categorization as a civilian detainee,
15 enemy prisoner of war/prisoner of war, or
16 enemy combatant.

17 (H) Information as to transfer to the juris-
18 diction of another country, including the iden-
19 tity of such country.

20 (3) Information on the detention facilities and
21 practices of the Department for the one-year period
22 ending on the date of such report, including for each
23 facility of the Department at which detainees were
24 detained by the Department during such period the
25 following:

1 (A) The name of such facility.

2 (B) The location of such facility.

3 (C) The number of detainees detained at
4 such facility as of the end of such period.

5 (D) The capacity of such facility.

6 (E) The number of military personnel as-
7 signed to such facility as of the end of such pe-
8 riod.

9 (F) The number of other employees of the
10 United States Government assigned to such fa-
11 cility as of the end of such period.

12 (G) The number of contractor personnel
13 assigned to such facility as of the end of such
14 period.

15 (c) FORM OF REPORT.—Each report under sub-
16 section (a) shall be submitted in unclassified form, but
17 may include a classified annex.

18 (d) APPROPRIATE COMMITTEES OF CONGRESS DE-
19 FINED.—In this section, the term “appropriate commit-
20 tees of Congress” means—

21 (1) the Committee on Armed Services and the
22 Select Committee on Intelligence of the Senate; and

23 (2) the Committee on Armed Services and the
24 Permanent Select Committee on Intelligence of the
25 House of Representatives.

1 **Subtitle D—Matters Relating to**
2 **Space**

3 **SEC. 1031. SPACE POSTURE REVIEW.**

4 (a) REQUIREMENT FOR COMPREHENSIVE REVIEW.—

5 In order to clarify the national security space policy and
6 strategy of the United States for the near term, the Sec-
7 retary of Defense shall conduct a comprehensive review
8 of the space posture of the United States over the posture
9 review period.

10 (b) ELEMENTS OF REVIEW.—The review conducted
11 under subsection (a) shall include, for the posture review
12 period, the following:

13 (1) The role of space in United States military
14 and national security strategy, planning, and pro-
15 gramming.

16 (2) The policy, requirements, and objectives for
17 space situational awareness.

18 (3) The policy, requirements, and objectives for
19 space control.

20 (4) The policy, requirements, and objectives for
21 space superiority, including defensive and offensive
22 counterspace.

23 (5) The policy, requirements, and objectives for
24 space exploitation, including force enhancement and
25 force application.

1 (6) The policy, requirements, and objectives for
2 intelligence surveillance and reconnaissance from
3 space.

4 (7) Current and planned space programs, in-
5 cluding how each such program will address the pol-
6 icy, requirements, and objectives described in para-
7 graphs (1) through (6).

8 (8) The relationship among United States mili-
9 tary space policy and national security space policy,
10 space objectives, and arms control policy.

11 (9) The type of systems, including space sys-
12 tems, that are necessary to implement United States
13 military and national security space policies.

14 (10) The effect of United States national secu-
15 rity space policy on weapons proliferation.

16 (c) REPORTS.—(1) Not later than March 15, 2005,
17 the Secretary of Defense shall submit to the congressional
18 defense committees an interim report on the review con-
19 ducted under subsection (a).

20 (2) Not later than December 31, 2005, the Secretary
21 shall submit to the congressional defense committees a
22 final report on the review.

23 (3) Each report under this subsection shall be sub-
24 mitted in unclassified form, but may include a classified
25 annex.

1 (4) The reports under this subsection shall also be
2 submitted to the Select Committee on Intelligence of the
3 Senate and the Permanent Select Committee on Intel-
4 ligence of the House of Representatives.

5 (d) JOINT UNDERTAKING WITH THE DIRECTOR OF
6 CENTRAL INTELLIGENCE.—The Secretary of Defense
7 shall conduct the review under this section, and submit
8 the reports under subsection (c), jointly with the Director
9 of Central Intelligence.

10 (e) POSTURE REVIEW PERIOD DEFINED.—In this
11 section, the term “posture review period” means the pe-
12 riod beginning one year after the date of the enactment
13 of this Act and ending ten years after that date.

14 **SEC. 1032. PANEL ON THE FUTURE OF MILITARY SPACE**
15 **LAUNCH.**

16 (a) IN GENERAL.—(1) The Secretary of Defense
17 shall enter into a contract with a federally funded research
18 and development center to establish a panel on the future
19 military space launch requirements of the United States,
20 including means of meeting such requirements.

21 (2) The Secretary shall enter into the contract not
22 later than 60 days after the date of the enactment of this
23 Act.

24 (b) MEMBERSHIP AND ADMINISTRATION OF
25 PANEL.—(1) The panel shall consist of individuals se-

1 lected by the federally funded research and development
2 center from among private citizens of the United States
3 with knowledge and expertise in one or more of the fol-
4 lowing areas:

5 (A) Space launch operations.

6 (B) Space launch technologies.

7 (C) Satellite and satellite payloads.

8 (D) State and national launch complexes.

9 (E) Space launch economics.

10 (2) The federally funded research and development
11 center shall establish appropriate procedures for the ad-
12 ministration of the panel, including designation of the
13 chairman of the panel from among its members.

14 (3) All panel members shall hold security clearances
15 appropriate for the work of the panel.

16 (4) The panel shall convene its first meeting not later
17 than 30 days after the date on which all members of the
18 panel have been selected.

19 (c) DUTIES.—(1) The panel shall conduct a review
20 and assessment of the future military space launch re-
21 quirements of the United States, including the means of
22 meeting such requirements.

23 (2) The review and assessment shall take into ac-
24 count matters as follows:

25 (A) Launch economics.

1 (B) Operational concepts and architectures.

2 (C) Launch technologies, including—

3 (i) reusable launch vehicles;

4 (ii) expendable launch vehicles;

5 (iii) low cost options; and

6 (iv) revolutionary approaches.

7 (D) Payloads, including their implications for
8 launch requirements.

9 (E) Launch infrastructure.

10 (F) Launch industrial base.

11 (G) Relationships among military, civilian, and
12 commercial launch requirements.

13 (3) The review and assessment shall address military
14 space launch requirements over each of the 5-year, 10-
15 year, and 15-year periods beginning with 2005.

16 (d) COOPERATION OF FEDERAL AGENCIES.—(1) The
17 panel may secure directly from the Department of Defense
18 or any other department or agency of the Federal Govern-
19 ment any information that the panel considers necessary
20 to carry out its duties.

21 (2) The Secretary of Defense shall designate at least
22 one senior civilian employee of the Department of Defense
23 and at least one general or flag officer of an Armed Force
24 to serve as liaison between the Department, the Armed
25 Forces, and the panel.

1 (e) REPORT.—Not later than one year after the date
2 of the first meeting of the panel under subsection (b)(4),
3 the panel shall submit to the Secretary of Defense, the
4 congressional defense committees, the Select Committee
5 on Intelligence of the Senate, and the Permanent Select
6 Committee on Intelligence of the House of Representatives
7 a report on the results of the review and assessment under
8 subsection (e). The report shall include—

9 (1) the findings and conclusions of the panel on
10 the future military space launch requirements of the
11 United States, including means of meeting such re-
12 quirements;

13 (2) the assessment of panel, and any rec-
14 ommendations of the panel, on—

15 (A) launch operational concepts and archi-
16 tectures;

17 (B) launch technologies;

18 (C) launch enabling technologies; and

19 (D) priorities for funding; and

20 (3) the assessment of the panel as to the best
21 means of meeting the future military space launch
22 requirements of the United States.

23 (f) TERMINATION.—The panel shall terminate 16
24 months after the date on which the chairman of the panel
25 is designated pursuant to subsection (b)(2).

1 (g) FUNDING.—Amounts authorized to be appro-
2 priated to the Department of Defense shall be available
3 to the Secretary of Defense for purposes of the contract
4 required by subsection (a).

5 **SEC. 1033. OPERATIONALLY RESPONSIVE NATIONAL SECUR-**
6 **RITY PAYLOADS FOR SPACE SATELLITES.**

7 (a) PLANNING, PROGRAMMING, AND MANAGE-
8 MENT.—(1) Chapter 135 of title 10, United States Code,
9 is amended by inserting after section 2273 the following
10 new section:

11 **“§ 2273a. Operationally responsive national security**
12 **payloads**

13 “(a) REQUIREMENT FOR PROGRAM ELEMENT.—The
14 Secretary of Defense shall ensure that operationally re-
15 sponsive national security payloads of the Department of
16 Defense for space satellites are planned, programmed, and
17 budgeted for as a separate, dedicated program element.

18 “(b) MANAGEMENT AUTHORITY.—The Secretary of
19 Defense shall assign management authority for the pro-
20 gram element required under subsection (a) to the Direc-
21 tor of the Office of Force Transformation.

22 “(c) DEFINITION OF OPERATIONALLY RESPON-
23 SIVE.—In this section, the term ‘operationally responsive’,
24 with respect to a national security payload for a space sat-

1 elite, means an experimental or operational payload not
2 in excess of 5,000 pounds that—

3 “(1) can be developed and acquired within 18
4 months after authority to proceed with development
5 is granted; and

6 “(2) is responsive to requirements for capabili-
7 ties at the operational and tactical levels of war-
8 fare.”.

9 (2) The table of sections at the beginning of such
10 chapter is amended by inserting after the item relating
11 to section 2273 the following new item:

“2273a. Operationally responsive national security payloads.”.

12 (b) **TIME FOR IMPLEMENTATION.**—Section 2273a(a)
13 of title 10, United States Code, shall apply with respect
14 to fiscal years beginning after September 30, 2005.

15 (c) **FUNDING.**—Of the amount authorized to be ap-
16 propriated under section 201(4), \$25,000,000 shall be
17 available for research, development, test, and evaluation
18 of operationally responsive national security payloads for
19 space satellites.

20 **SEC. 1034. NONDISCLOSURE OF CERTAIN PRODUCTS OF**
21 **COMMERCIAL SATELLITE OPERATIONS.**

22 (a) **DISCLOSURE PROHIBITED.**—Land remote sens-
23 ing information may not be disclosed under section 552
24 of title 5, United States Code.

1 (b) LAND REMOTE SENSING INFORMATION DE-
2 FINED.—In this section, the term “land remote sensing
3 information”—

4 (1) means any data that—

5 (A) are collected by land remote sensing;

6 and

7 (B) are prohibited from sale to customers
8 other than the United States Government and
9 its affiliated users under the Land Remote
10 Sensing Policy Act of 1992 (15 U.S.C. 5601 et
11 seq.); and

12 (2) includes any imagery and other product
13 that is derived from such data.

14 (c) STATE OR LOCAL GOVERNMENT DISCLOSURES.—

15 Land remote sensing information provided by the head of
16 a department or agency of the United States to a State
17 or local government may not be made available to the gen-
18 eral public under any State or local law relating to the
19 disclosure of information or records.

20 (d) SAFEGUARDING INFORMATION.—The head of

21 each department or agency of the United States having
22 land remote sensing information within that department
23 or agency or providing such information to a State or local
24 government shall take such actions, commensurate with
25 the sensitivity of that information, as are necessary to pro-

1 tect that information from disclosure prohibited under this
2 section.

3 (e) OTHER DEFINITIONS.—In this section, the terms
4 “land remote sensing” and “United States Government
5 and its affiliated users” have the meanings given such
6 terms in section 3 of such Act (15 U.S.C. 5602).

7 **SEC. 1035. SENSE OF CONGRESS ON SPACE LAUNCH**
8 **RANGES.**

9 It is the sense of Congress that the Secretary of De-
10 fense should provide support for, and continue the devel-
11 opment, certification, and deployment of range safety sys-
12 tems that are capable of—

13 (1) reducing costs related to national security
14 space launches and launch infrastructure; and

15 (2) enhancing technical capabilities and oper-
16 ational safety at the Eastern, Western, and other
17 United States space launch ranges.

18 **Subtitle E—Defense Against**
19 **Terrorism**

20 **SEC. 1041. TEMPORARY ACCEPTANCE OF COMMUNICA-**
21 **TIONS EQUIPMENT PROVIDED BY LOCAL**
22 **PUBLIC SAFETY AGENCIES.**

23 (a) AUTHORITY.—Chapter 155 of title 10, United
24 States Code, is amended by adding at the end the fol-
25 lowing new section:

1 **“§ 2613. Emergency communications equipment: tem-**
2 **porary acceptance from local public safe-**
3 **ty agencies**

4 “(a) AUTHORITY FOR TEMPORARY ACCEPTANCE OF
5 EQUIPMENT.—(1) Under regulations prescribed by the
6 Secretary concerned, the commander of a military installa-
7 tion may include in a disaster response agreement with
8 a local public safety agency a clause that provides for the
9 commander to accept from the public safety agency for
10 use during a natural or man-made disaster any commu-
11 nications equipment that is useful for communicating with
12 such agency during a joint response by the commander
13 and such agency to such disaster.

14 “(2) The authority under paragraph (1) includes au-
15 thority to accept services related to the operation and
16 maintenance of communications equipment accepted
17 under that paragraph.

18 “(3) In the case of a military installation adminis-
19 tered by an officer or employee of the United States, such
20 officer or employee may exercise the authority of a com-
21 mander under this section.

22 “(b) CONDITIONS.—Acceptance of communications
23 equipment and services by a commander from a public
24 safety agency under subsection (a) is subject to the fol-
25 lowing conditions:

1 “(1) Acceptance of equipment is authorized
2 only to the extent that communications equipment
3 under the control of the commander is inadequate to
4 meet requirements for communicating with that pub-
5 lic safety agency during a joint response to a dis-
6 aster.

7 “(2) Acceptance of services for the operation or
8 maintenance of communications equipment is au-
9 thorized only to the extent that capabilities under
10 the control of the commander are inadequate to op-
11 erate or maintain such equipment.

12 “(c) LIABILITY.—(1) An emergency response agree-
13 ment under this section shall include a clause that—

14 “(A) specifies the means for the commander to
15 pay for use, loss, or damage of equipment, and for
16 services, accepted under the agreement; or

17 “(B) ensures that the United States is not lia-
18 ble for costs incurred for the acceptance and use of
19 the equipment or services nor for any loss or damage
20 of such equipment.

21 “(2) No person providing services accepted under an
22 emergency response agreement may be considered to be
23 an officer, employee, or agent of the United States for any
24 purpose.

1 “(d) GUIDANCE.—The Secretary of Defense shall
2 prescribe guidance for the administration of the require-
3 ments and authority under this section.

4 “(e) DEFINITIONS.—In this section:

5 “(1) The term ‘emergency response agreement’
6 means a memorandum of agreement or memo-
7 randum of understanding that provides for mutual
8 support by Department of Defense personnel and
9 local public safety agency personnel in response to a
10 natural or man-made disaster.

11 “(2) The term ‘military installation’ has the
12 meaning given such term in section 2801(c) of this
13 title.”.

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

“2613. Emergency communications equipment: temporary acceptance from local
public safety agencies.”.

17 **SEC. 1042. FULL-TIME DEDICATION OF AIRLIFT SUPPORT**
18 **FOR HOMELAND DEFENSE OPERATIONS.**

19 (a) DETERMINATION REQUIRED.—(1) The Secretary
20 of Defense shall determine the feasibility and advisability
21 of dedicating an airlift capability of the Armed Forces on
22 a full-time basis to the support of homeland defense oper-
23 ations, including operations in support of contingent re-
24 quirements for transporting Weapons of Mass Destruction

1 Civil Support Teams, Air Force expeditionary medical
2 teams, and Department of Energy emergency response
3 teams in response to natural disasters and man-made dis-
4 asters.

5 (2) In making the determination under paragraph
6 (1), the Secretary shall take into consideration the results
7 of the study required under subsection (b).

8 (b) REQUIREMENT FOR STUDY AND PLAN.—(1) The
9 Secretary of Defense shall conduct a study of the existing
10 plans and capabilities of the Department of Defense for
11 meeting contingent requirements for transporting teams
12 described in subsection (a)(1) in response to natural disas-
13 ters and man-made disasters.

14 (2) The Secretary shall prepare a plan for resolving
15 any deficiencies in the existing plans and capabilities for
16 meeting the transportation requirements described in
17 paragraph (1).

18 (3) The Secretary of Defense shall require the com-
19 mander of the United States Northern Command and the
20 commander of the United States Transportation Com-
21 mand to carry out jointly the study required under para-
22 graph (1) and to prepare jointly the plan required under
23 paragraph (2).

24 (c) REPORT.—Not later than April 1, 2005, the Sec-
25 retary shall submit to the Committees on Armed Services

1 of the Senate and the House of Representatives a report
2 on the results of the study under subsection (b). The re-
3 port shall include the following matters:

4 (1) The Secretary's determination under sub-
5 section (a).

6 (2) An assessment and discussion of the ade-
7 quacy of existing plans and capabilities of the De-
8 partment of Defense for meeting the transportation
9 requirements described in subsection (b)(1).

10 (3) The plan required under subsection (b)(2).

11 (d) DEFINITION.—In this section, the term “Weap-
12 ons of Mass Destruction Civil Support Team” has the
13 meaning given such term in section 305b(e) of title 37,
14 United States Code.

15 **SEC. 1043. SURVIVABILITY OF CRITICAL SYSTEMS EXPOSED**
16 **TO CHEMICAL OR BIOLOGICAL CONTAMINA-**
17 **TION.**

18 (a) REQUIREMENT FOR IMPLEMENTATION PLAN.—
19 Not later than 120 days after the date of the enactment
20 of this Act, the Secretary of Defense shall submit to the
21 congressional defense committees a plan, for implementa-
22 tion by the Department of Defense, that sets forth a sys-
23 tematic approach for ensuring the survivability of defense
24 critical systems upon contamination of such systems by
25 chemical or biological agents.

1 (b) CONTENT.—At a minimum, the plan under sub-
2 section (a) shall include—

3 (1) policies for ensuring that the survivability of
4 defense critical systems in the event of contamina-
5 tion by chemical or biological agents is adequately
6 addressed throughout the Department of Defense;

7 (2) a systematic process for identifying which
8 systems are defense critical systems;

9 (3) specific testing procedures to be used dur-
10 ing the design and development of new defense crit-
11 ical systems; and

12 (4) a centralized database that—

13 (A) contains comprehensive information on
14 the effects of chemical and biological agents
15 and decontaminants on materials used in de-
16 fense critical systems; and

17 (B) is easily accessible to personnel who
18 have duties to ensure the survivability of de-
19 fense critical systems upon contamination of
20 such systems by chemical and biological agents.

21 (c) DEFENSE CRITICAL SYSTEMS DEFINED.—In this
22 section, the term “defense critical system” means a De-
23 partment of Defense system that is critical to the national
24 security of the United States.

1 **Subtitle F—Matters Relating to**
2 **Other Nations**

3 **SEC. 1051. HUMANITARIAN ASSISTANCE FOR THE DETEC-**
4 **TION AND CLEARANCE OF LANDMINES AND**
5 **EXPLOSIVE REMNANTS OF WAR.**

6 (a) RESTATEMENT AND EXPANSION OF AUTHOR-
7 ITY.—(1) Chapter 20 of title 10, United States Code, is
8 amended by adding at the end the following new section:

9 **“§ 406. Humanitarian assistance for the detection and**
10 **clearance of landmines and explosive**
11 **remnants of war**

12 “(a) IN GENERAL.—Under regulations prescribed by
13 the Secretary of Defense, members of the armed forces
14 may provide humanitarian assistance for the detection and
15 clearance of landmines or explosive remnants of war in
16 a foreign country, including activities relating to the fur-
17 nishing of education, training, and technical assistance, if
18 the Secretary determines that the provision of such assist-
19 ance will promote—

20 “(1) the security interests of both the United
21 States and the country in which such assistance is
22 to be provided; and

23 “(2) the specific operational readiness skills of
24 the members of the armed forces who provide such
25 assistance.

1 “(b) LIMITATIONS ON ACTIVITIES OF MEMBERS OF
2 THE ARMED FORCES.—The Secretary shall ensure that
3 no member of the armed forces, while providing assistance
4 under this section—

5 “(1) engages in the physical detection, lifting or
6 destroying of landmines or explosive remnants of
7 war (unless the member does so for the concurrent
8 purpose of supporting a United States military oper-
9 ation); or

10 “(2) provides such assistance as part of a mili-
11 tary operation that does not involve the armed
12 forces.

13 “(c) REQUIREMENT FOR APPROVAL OF SECRETARY
14 OF STATE.—Humanitarian assistance for the detection
15 and clearance of landmines and remnants of war may not
16 be provided under this section to any foreign country un-
17 less the Secretary of State specifically approves the provi-
18 sion of such assistance to such foreign country.

19 “(d) AVAILABILITY OF FUNDS FOR CERTAIN EX-
20 PENSES.—(1) To the extent provided in Acts authorizing
21 appropriations for military activities of the Department of
22 Defense, funds authorized to be appropriated to the De-
23 partment for a fiscal year for humanitarian assistance
24 shall be available for the purpose of providing assistance
25 under this section.

1 “(2) Expenses incurred as a direct result of providing
2 humanitarian assistance under this section to a foreign
3 country shall be paid out of funds specifically appropriated
4 for such purpose.

5 “(3) Expenses covered by paragraph (2) include the
6 following:

7 “(A) Travel, transportation, and subsistence ex-
8 penses of Department of Defense personnel pro-
9 viding humanitarian assistance under this section.

10 “(B) The cost of any equipment, services, or
11 supplies acquired for the purpose of carrying out or
12 supporting the provision of such assistance, includ-
13 ing any nonlethal, individual, or small-team land-
14 mine or explosive remnant of war clearing equipment
15 or supplies that are to be transferred or otherwise
16 furnished to a foreign country in furtherance of the
17 provision of assistance under this section.

18 “(4) The cost of equipment, services and supplies
19 provided in any fiscal year to a foreign country under
20 paragraph (3)(B) may not exceed \$5,000,000.”.

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

“406. Humanitarian assistance for the detection and clearance of landmines and
explosive remnants of war.”.

1 (b) REPEAL OF SUPERSEDED AUTHORITY.—Section
2 401 of such title is amended—

3 (1) in subsection (a), by striking paragraph (4);

4 (2) in subsection (b)—

5 (A) in paragraph (1), by striking “(1)”;

6 and

7 (B) by striking paragraph (2);

8 (3) in subsection (c)—

9 (A) by striking paragraphs (2) and (3);

10 and

11 (B) by redesignating paragraph (4) as
12 paragraph (2); and

13 (4) in subsection (e), by striking paragraph (5).

14 **SEC. 1052. USE OF FUNDS FOR UNIFIED COUNTERDRUG**
15 **AND COUNTERTERRORISM CAMPAIGN IN CO-**
16 **LOMBIA.**

17 (a) AUTHORITY.—(1) In fiscal years 2005 and 2006,
18 funds available to the Department of Defense to provide
19 assistance to the Government of Colombia may be used
20 by the Secretary of Defense to support a unified campaign
21 by the Government of Colombia against narcotics traf-
22 ficking and against activities by organizations designated
23 as terrorist organizations, such as the Revolutionary
24 Armed Forces of Colombia (FARC), the National Libera-

1 tion Army (ELN), and the United Self-Defense Forces of
2 Colombia (AUC).

3 (2) The authority to provide assistance for a cam-
4 paign under this subsection includes authority to take ac-
5 tions to protect human health and welfare in emergency
6 circumstances, including the undertaking of rescue oper-
7 ations.

8 (b) APPLICABILITY OF CERTAIN LAWS AND LIMITA-
9 TIONS.—The use of funds pursuant to the authority in
10 subsection (a) shall be subject to the following:

11 (1) Sections 556, 567, and 568 of the Foreign
12 Operations, Export Financing, and Related Pro-
13 grams Appropriations Act, 2002 (Public Law 107–
14 115; 115 Stat. 2160, 2165, and 2166).

15 (2) Section 8077 of the Department of Defense
16 Appropriations Act, 2004 (Public Law 108–87; 117
17 Stat. 1090).

18 (c) NUMERICAL LIMITATION ON ASSIGNMENT OF
19 UNITED STATES PERSONNEL.—Notwithstanding section
20 3204(b) of the Emergency Supplemental Act, 2000 (Divi-
21 sion B of Public Law 106–246; 114 Stat. 575), as amend-
22 ed by the Foreign Operations, Export Financing, and Re-
23 lated Programs Appropriations Act, 2002 (Public Law
24 107–115; 115 Stat. 2131), the number of United States
25 personnel assigned to conduct activities in Colombia in

1 connection with support of Plan Colombia under sub-
2 section (a) in fiscal years 2005 and 2006 shall be subject
3 to the following limitations:

4 (1) The number of United States military per-
5 sonnel assigned for temporary or permanent duty in
6 Colombia in connection with support of Plan Colom-
7 bia may not exceed 800.

8 (2) The number of United States individual
9 citizens retained as contractors in Colombia in con-
10 nection with support of Plan Colombia who are
11 funded by Federal funds may not exceed 600.

12 (d) LIMITATION ON PARTICIPATION OF UNITED
13 STATES PERSONNEL.—No United States Armed Forces
14 personnel, United States civilian employees, or United
15 States civilian contractor personnel employed by the
16 United States may participate in any combat operation in
17 connection with assistance using funds pursuant to the au-
18 thority in subsection (a), except for the purpose of acting
19 in self defense or of rescuing any United States citizen,
20 including any United States Armed Forces personnel,
21 United States civilian employee, or civilian contractor em-
22 ployed by the United States.

23 (e) RELATION TO OTHER AUTHORITY.—The author-
24 ity provided by subsection (a) is in addition to any other

1 authority in law to provide assistance to the Government
2 of Colombia.

3 (f) REPORT ON RELATIONSHIPS BETWEEN TER-
4 RORIST ORGANIZATIONS IN COLOMBIA AND FOREIGN
5 GOVERNMENTS AND ORGANIZATIONS.—(1) Not later than
6 60 days after the date of the enactment of this Act, the
7 Secretary of State shall, in consultation with the Secretary
8 of Defense and the Director of Central Intelligence, sub-
9 mit to the congressional defense committees and the Com-
10 mittee on Foreign Relations of the Senate and the Com-
11 mittee on International Relations of the House of Rep-
12 resentatives a report that describes—

13 (A) any relationships between foreign govern-
14 ments or organizations and organizations based in
15 Colombia that have been designated as foreign ter-
16 rorist organizations under United States law, includ-
17 ing the provision of any direct or indirect assistance
18 to such organizations; and

19 (B) United States policies that are designed to
20 address such relationships.

21 (2) The report under paragraph (1) shall be sub-
22 mitted in unclassified form, but may include a classified
23 annex.

1 **SEC. 1053. ASSISTANCE TO IRAQ AND AFGHANISTAN MILI-**
2 **TARY AND SECURITY FORCES.**

3 (a) **AUTHORITY.**—Subject to the limitations in sub-
4 section (e), the Secretary of Defense may provide assist-
5 ance in fiscal year 2005 to Iraq and Afghanistan military
6 or security forces solely to enhance their ability to combat
7 terrorism and support United States or coalition military
8 operations in Iraq and Afghanistan, respectively.

9 (b) **TYPE OF ASSISTANCE.**—Assistance provided
10 under subsection (a) may include equipment, supplies,
11 services, and training.

12 (c) **LIMITATIONS.**—(1) The Secretary of Defense may
13 provide assistance under this section only with the concur-
14 rence of the Secretary of State and, in any case in which
15 section 104(e) of the National Security Act of 1947 (50
16 U.S.C. 403–4(e)) applies, the Director of Central Intel-
17 ligence.

18 (2) The cost of assistance provided under this section
19 may be paid only out of funds available to the Department
20 of Defense for fiscal year 2005 for operation and mainte-
21 nance and may not exceed \$250,000,000.

22 (d) **RELATIONSHIP TO OTHER AUTHORITY.**—The au-
23 thority to provide assistance under this section is in addi-
24 tion to any other authority to provide assistance to Iraq
25 and Afghanistan.

1 (e) CONGRESSIONAL NOTIFICATION.—Not later than
2 15 days before providing assistance to a recipient under
3 this section, the Secretary of Defense shall submit to the
4 congressional defense committees a notification of the as-
5 sistance proposed to be provided.

6 **SEC. 1054. ASSIGNMENT OF NATO NAVAL PERSONNEL TO**
7 **SUBMARINE SAFETY RESEARCH AND DEVEL-**
8 **OPMENT PROGRAMS.**

9 (a) AUTHORITY.—Chapter 631 of title 10, United
10 States Code, is amended by inserting after the item relat-
11 ing to section 7205 the following new section:

12 **“§ 7206. Submarine safety research and development:**
13 **acceptance of services of NATO naval**
14 **personnel**

15 “(a) AUTHORITY.—The Secretary of the Navy may,
16 subject to subsection (e), accept the assignment of one or
17 more members of the navy of another member country of
18 the North Atlantic Treaty Organization to a command of
19 the Navy for work on the development, standardization,
20 or interoperability of submarine vessel safety and rescue
21 systems and procedures if the Secretary determines that
22 doing so would facilitate the development, standardization,
23 and interoperability of submarine vessel safety and rescue
24 systems and procedures for the Navy, the navy of that
25 foreign country, and any other navy involved in that work.

1 “(b) RECIPROCITY NOT REQUIRED.—The authority
2 under subsection (a) is not an exchange program. Recip-
3 rocal assignments of members of the Navy to a navy of
4 a foreign country is not a condition for the exercise of
5 such authority.

6 “(c) PAYMENT OF PERSONNEL COSTS.—(1) The ac-
7 ceptance of a member of a navy of a foreign country under
8 this section is subject to the condition that the government
9 of that country pay the salary, per diem allowance, sub-
10 sistence costs, travel costs, cost of language or other train-
11 ing, and other costs for that member in accordance with
12 the laws and regulations of such country.

13 “(2) Paragraph (1) does not apply to the following
14 costs:

15 “(A) The cost of temporary duty directed by
16 the Secretary of the Navy or an officer of the Navy
17 authorized to do so.

18 “(B) The cost of a training program conducted
19 to familiarize, orient, or certify foreign naval per-
20 sonnel regarding unique aspects of their assign-
21 ments.

22 “(C) Any cost incident to the use of the facili-
23 ties of the Navy in the performance of assigned du-
24 ties.

1 “(d) RELATIONSHIP TO OTHER AUTHORITY.—The
2 provisions of this section shall apply to any other authority
3 that the Secretary of the Navy may exercise, subject to
4 the concurrence of the Secretary of State, to enter into
5 an agreement with the government of a foreign country
6 to provide for the assignment of members of the navy of
7 that foreign country to a Navy submarine safety program.
8 The Secretary of the Navy may prescribe regulations for
9 the application of this section in the exercise of such au-
10 thority.

11 “(e) TERMINATION OF AUTHORITY.—The Secretary
12 of the Navy may not accept the assignment of a member
13 of the navy of a foreign country under this section after
14 September 30, 2008.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of such chapter is amended by inserting
17 after the item relating to section 7205 the following new
18 item:

“7206. Submarine safety research and development: acceptance of services of
NATO naval personnel.”.

19 **SEC. 1055. COMPENSATION FOR FORMER PRISONERS OF**
20 **WAR.**

21 Any plan of the Secretary of Defense to provide com-
22 pensation to an individual who was injured in a military
23 prison under the control of the United States in Iraq shall
24 include a provision to address the injuries suffered by the

1 17 citizens of the United States who were held as pris-
2 oners of war by the regime of Saddam Hussein during
3 the First Gulf War.

4 **SEC. 1056. DRUG ERADICATION EFFORTS IN AFGHANISTAN.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) The United States engaged in military ac-
8 tion against the Taliban-controlled Government of
9 Afghanistan in 2001 in direct response to the
10 Taliban’s support and aid to Al Qaeda.

11 (2) The military action against the Taliban in
12 Afghanistan was designed, in part, to disrupt the ac-
13 tivities of, and financial support for, terrorists.

14 (3) A greater percentage of the world’s opium
15 supply is now produced in Afghanistan than before
16 the Taliban banned the cultivation or trade of
17 opium.

18 (4) In 2004, more than two years after the
19 Taliban was forcefully removed from power, Afghan-
20 istan is supplying approximately 75 percent of the
21 world’s heroin.

22 (5) The estimated value of the opium harvested
23 in Afghanistan in 2003 was \$2,300,000,000.

24 (6) Some of the profits associated with opium
25 harvested in Afghanistan continue to fund terrorists

1 and terrorist organizations, including Al Qaeda, that
2 seek to attack the United States and United States
3 interests.

4 (7) The global war on terror is and should re-
5 main our Nation's highest national security priority.

6 (8) United States and Coalition counterdrug ef-
7 forts in Afghanistan have not yet produced signifi-
8 cant results.

9 (9) There are indications of strong, direct con-
10 nections between terrorism and drug trafficking.

11 (10) The elimination of this funding source is
12 critical to making significant progress in the global
13 war on terror.

14 (11) The President of Afghanistan, Hamid
15 Karzai, has stated that opium production poses a
16 significant threat to the future of Afghanistan, and
17 has established a plan of action to deal with this
18 threat.

19 (12) The United Nations Office on Drugs and
20 Crime has reported that Afghanistan is at risk of
21 again becoming a failed state if strong actions are
22 not taken against narcotics.

23 (b) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that—

1 (1) the President should make the substantial
2 reduction of drug trafficking in Afghanistan a pri-
3 ority in the war on terror;

4 (2) the Secretary of Defense should, in coordi-
5 nation with the Secretary of State, work to a greater
6 extent in cooperation with the Government of Af-
7 ghanistan and international organizations involved in
8 counterdrug activities to assist in providing a secure
9 environment for counterdrug personnel in Afghani-
10 stan; and

11 (3) because the trafficking of narcotics is
12 known to support terrorist activities and contributes
13 to the instability of the Government of Afghanistan,
14 additional efforts should be made by the Armed
15 Forces of the United States, in conjunction with and
16 in support of coalition forces, to significantly reduce
17 narcotics trafficking in Afghanistan and neighboring
18 countries, with particular focus on those trafficking
19 organizations with the closest links to known ter-
20 rorist organizations.

21 (c) REPORT.—Not later than 120 days after the date
22 of the enactment of this Act, the Secretary of Defense
23 shall submit to Congress a report that describes—

1 (1) progress made towards substantially reduc-
2 ing the poppy cultivation and heroin production ca-
3 pabilities in Afghanistan; and

4 (2) the extent to which profits from illegal drug
5 activity in Afghanistan fund terrorist organizations
6 and support groups that seek to undermine the Gov-
7 ernment of Afghanistan.

8 **SEC. 1057. HUMANE TREATMENT OF DETAINEES.**

9 (a) FINDINGS.—Congress makes the following find-
10 ings:

11 (1) After World War II, the United States and
12 its allies created a new international legal order
13 based on respect for human rights. One of its funda-
14 mental tenets was a universal prohibition on torture
15 and ill treatment.

16 (2) On June 26, 2003, the International Day in
17 Support of Victims of Torture, President George W.
18 Bush stated, “The United States is committed to
19 the world-wide elimination of torture and we are
20 leading this fight by example. I call on all govern-
21 ments to join with the United States and the com-
22 munity of law-abiding nations in prohibiting, inves-
23 tigating, and prosecuting all acts of torture and in
24 undertaking to prevent other cruel and unusual pun-
25 ishment.”.

1 (3) The United States is a party to the Geneva
2 Conventions, which prohibit torture, cruel treatment,
3 or outrages upon personal dignity, in particular,
4 humiliating and degrading treatment, during armed
5 conflict.

6 (4) The United States is a party to 2 treaties
7 that prohibit torture and cruel, inhuman, or degrad-
8 ing treatment or punishment, as follows:

9 (A) The International Covenant on Civil
10 and Political Rights, done at New York Decem-
11 ber 16, 1966.

12 (B) The Convention against Torture and
13 Other Cruel, Inhuman or Degrading Treatment
14 or Punishment, done at New York December
15 10, 1984.

16 (5) The United States filed reservations to the
17 treaties described in subparagraphs (A) and (B) of
18 paragraph (4) stating that the United States con-
19 siders itself bound to prevent “cruel, inhuman or de-
20 grading treatment or punishment” to the extent that
21 phrase means the cruel, unusual, and inhumane
22 treatment or punishment prohibited by the 5th
23 amendment, 8th amendment, or 14th amendment to
24 the Constitution.

1 (6) Army Regulation 190-8 entitled “Enemy
2 Prisoners of War, Retained Personnel, Civilian In-
3 ternees and Other Detainees” provides that “Inhu-
4 mane treatment is a serious and punishable violation
5 under international law and the Uniform Code of
6 Military Justice (UCMJ)... All prisoners will re-
7 ceive humane treatment without regard to race, na-
8 tionality, religion, political opinion, sex, or other cri-
9 teria. The following acts are prohibited: murder, tor-
10 ture, corporal punishment, mutilation, the taking of
11 hostages, sensory deprivation, collective punish-
12 ments, execution without trial by proper authority,
13 and all cruel and degrading treatment... All per-
14 sons will be respected as human beings. They will be
15 protected against all acts of violence to include rape,
16 forced prostitution, assault and theft, insults, public
17 curiosity, bodily injury, and reprisals of any kind...
18 This list is not exclusive.”

19 (7) The Field Manual on Intelligence Interroga-
20 tion of the Department of the Army states that
21 “acts of violence or intimidation, including physical
22 or mental torture, threats, insults, or exposure to in-
23 humane treatment as a means of or an aid to inter-
24 rogation” are “illegal”. Such Manual defines “inflic-
25 tion of pain through... bondage (other than legiti-

1 mate use of restraints to prevent escape)”, “forcing
2 an individual to stand, sit, or kneel in abnormal po-
3 sitions for prolonged periods of time”, “food depriva-
4 tion”, and “any form of beating” as “physical tor-
5 ture”, defines “abnormal sleep deprivation” as
6 “mental torture”, and prohibits the use of such tac-
7 tics under any circumstances.

8 (8) The Field Manual on Intelligence Interroga-
9 tion of the Department of the Army states that
10 “Use of torture and other illegal methods is a poor
11 technique that yields unreliable results, may damage
12 subsequent collection efforts, and can induce the
13 source to say what he thinks the interrogator wants
14 to hear. Revelation of use of torture by U.S. per-
15 sonnel will bring discredit upon the U.S. and its
16 armed forces while undermining domestic and inter-
17 national support for the war effort. It may also place
18 U.S. and allied personnel in enemy hands at a great-
19 er risk of abuse by their captors.”.

20 (b) PROHIBITION ON TORTURE OR CRUEL, INHU-
21 MAN, OR DEGRADING TREATMENT OR PUNISHMENT.—(1)
22 No person in the custody or under the physical control
23 of the United States shall be subject to torture or cruel,
24 inhuman, or degrading treatment or punishment that is

1 prohibited by the Constitution, laws, or treaties of the
2 United States.

3 (2) Nothing in this section shall affect the status of
4 any person under the Geneva Conventions or whether any
5 person is entitled to the protections of the Geneva Conven-
6 tions.

7 (c) RULES, REGULATIONS, AND GUIDELINES.—(1)
8 Not later than 180 days after the date of enactment of
9 this Act, the Secretary shall prescribe the rules, regula-
10 tions, or guidelines necessary to ensure compliance with
11 the prohibition in subsection (b)(1) by the members of the
12 United States Armed Forces and by any person providing
13 services to the Department of Defense on a contract basis.

14 (2) The Secretary shall submit to the congressional
15 defense committees the rules, regulations, or guidelines
16 prescribed under paragraph (1), and any modifications to
17 such rules, regulations, or guidelines—

18 (A) not later than 30 days after the effective
19 date of such rules, regulations, guidelines, or modi-
20 fications; and

21 (B) in a manner and form that will protect the
22 national security interests of the United States.

23 (d) REPORT TO CONGRESS.—(1) The Secretary shall
24 submit, on a timely basis and not less than twice each
25 year, a report to Congress on the circumstances sur-

1 rounding any investigation of a possible violation of the
2 prohibition in subsection (b)(1) by a member of the Armed
3 Forces or by a person providing services to the Depart-
4 ment of Defense on a contract basis.

5 (2) A report required under paragraph (1) shall be
6 submitted in a manner and form that—

7 (A) will protect the national security interests
8 of the United States; and

9 (B) will not prejudice any prosecution of an in-
10 dividual involved in, or responsible for, a violation of
11 the prohibition in subsection (b)(1).

12 (e) DEFINITIONS.—In this section:

13 (1) The term “cruel, inhuman, or degrading
14 treatment or punishment” means the cruel, unusual,
15 and inhumane treatment or punishment prohibited
16 by the 5th amendment, 8th amendment, or 14th
17 amendment to the Constitution.

18 (2) The term “Geneva Conventions” means—

19 (A) the Convention for the Amelioration of
20 the Condition of the Wounded and Sick in
21 Armed Forces in the Field, done at Geneva Au-
22 gust 12, 1949 (6 UST 3114);

23 (B) the Convention for the Amelioration of
24 the Condition of the Wounded, Sick, and Ship-
25 wrecked Members of Armed Forces at Sea,

1 done at Geneva August 12, 1949 (6 UST
2 3217);

3 (C) the Convention Relative to the Treat-
4 ment of Prisoners of War, done at Geneva Au-
5 gust 12, 1949 (6 UST 3316); and

6 (D) the Convention Relative to the Protec-
7 tion of Civilian Persons in Time of War, done
8 at Geneva August 12, 1949 (6 UST 3516).

9 (3) The term “Secretary” means the Secretary
10 of Defense.

11 (4) The term “torture” has the meaning given
12 that term in section 2340 of title 18, United States
13 Code.

14 **SEC. 1058. UNITED NATIONS OIL-FOR-FOOD PROGRAM.**

15 (a) RESPONSIBILITY OF INSPECTOR GENERAL OF
16 THE DEPARTMENT OF DEFENSE FOR SECURITY OF DOC-
17 UMENTS.—(1) The Inspector General of the Department
18 of Defense, in cooperation with the Director of the De-
19 fense Contract Audit Agency and the Director of the De-
20 fense Contract Management Agency, shall ensure, not
21 later than June 30, 2004, the security of all documents
22 relevant to the United Nations Oil-for-Food Program that
23 are in the possession or control of the Coalition Provi-
24 sional Authority.

25 (2) The Inspector General shall—

1 (A) maintain copies of all such documents in
2 the United States at the Department of Defense;
3 and

4 (B) not later than August 31, 2004, deliver a
5 complete set of all such documents to the Comp-
6 troller General of the United States.

7 (b) COOPERATION IN INVESTIGATIONS.—Each head
8 of an Executive agency, including the Department of
9 State, the Department of Defense, the Department of the
10 Treasury, and the Central Intelligence Agency, and the
11 Administrator of the Coalition Provisional Authority shall,
12 upon a request in connection with an investigation of the
13 United Nations Oil-for-Food Program made by the chair-
14 man of the Committee on Foreign Relations, the Com-
15 mittee on Armed Services, the Committee on the Judici-
16 ary, the Committee on Governmental Affairs, the Select
17 Committee on Intelligence, the Permanent Subcommittee
18 on Investigations, or other committee of the Senate with
19 relevant jurisdiction, promptly provide to such chairman—

20 (1) access to any information and documents
21 described in subsections (a) or (c) that are under the
22 control of such agency and responsive to the request;
23 and

24 (2) assistance relating to access to and utiliza-
25 tion of such information and documents.

1 (c) INFORMATION FROM THE UNITED NATIONS.—(1)

2 The Secretary of State shall use the voice and vote of the
3 United States in the United Nations to urge the Sec-
4 retary-General of the United Nations to provide the
5 United States copies of all audits and core documents re-
6 lated to the United Nations Oil-for-Food Program.

7 (2) It is the sense of Congress that, pursuant to sec-
8 tion 941(b)(6) of the United Nations Reform Act of 1999
9 (title IX of division A of H.R. 3427 of the 106th Congress,
10 as enacted into law by section 1000(a)(7) of Public Law
11 106–113; 113 Stat. 1501A-480), the Comptroller General
12 of the United States should have full and complete access
13 to financial data relating to the United Nations, including
14 information related to the financial transactions, organiza-
15 tion, and activities of the United Nations Oil-for-Food
16 Program.

17 (3) The Secretary of State shall facilitate the pro-
18 viding of access to the Comptroller General to the financial
19 data described in paragraph (2).

20 (d) REVIEW OF OIL-FOR-FOOD PROGRAM BY COMP-
21 TROLLER GENERAL.—(1) The Comptroller General of the
22 United States shall conduct a review of United States
23 oversight of the United Nations Oil-for-Food Program.
24 The review—

1 (A) in accordance with Generally Accepted Gov-
2 ernment Auditing Standards, should not interfere
3 with any ongoing criminal investigations or inquiries
4 related to the Oil-for-Food program; and

5 (B) may take into account the results of any in-
6 vestigations or inquiries related to the Oil-for-Food
7 program.

8 (2) The head of each Executive agency shall fully co-
9 operate with the review under this subsection.

10 (e) EXECUTIVE AGENCY DEFINED.—In this section,
11 the term “Executive agency” has the meaning given that
12 term in section 105 of title 5, United States Code.

13 **SEC. 1059. SENSE OF CONGRESS ON THE GLOBAL PARTNER-**
14 **SHIP AGAINST THE SPREAD OF WEAPONS OF**
15 **MASS DESTRUCTION.**

16 It is the sense of Congress that the President should
17 be commended for the steps taken at the G–8 summit at
18 Sea Island, Georgia, on June 8–10, 2004, to demonstrate
19 continued support for the Global Partnership against the
20 Spread of Nuclear Weapons and Materials of Mass De-
21 struction and to expand the Partnership by welcoming new
22 members and using the Partnership to coordinate non-
23 proliferation projects in Libya, Iraq, and other countries;
24 and that the President should—

1 (1) expand the membership of donor nations to
2 the Partnership;

3 (2) insure that Russia remains the primary
4 partner of the Partnership while also seeking to
5 fund through the Partnership efforts in other coun-
6 tries with potentially vulnerable weapons or mate-
7 rials;

8 (3) develop for the Partnership clear program
9 goals;

10 (4) develop for the Partnership transparent
11 project prioritization and planning;

12 (5) develop for the Partnership project imple-
13 mentation milestones under periodic review;

14 (6) develop under the Partnership agreements
15 between partners for project implementation; and

16 (7) give high priority and senior-level attention
17 to resolving disagreements on site access and worker
18 liability under the Partnership.

19 **SEC. 1059A. EXCEPTION TO BILATERAL AGREEMENT RE-**
20 **QUIREMENTS FOR TRANSFERS OF DEFENSE**
21 **ITEMS.**

22 (a) FINDINGS.—Congress makes the following find-
23 ings:

24 (1) Close defense cooperation between the
25 United States and each of the United Kingdom and

1 Australia requires interoperability among the armed
2 forces of those countries.

3 (2) The need for interoperability must be bal-
4 anced with the need for appropriate and effective
5 regulation of trade in defense items.

6 (3) The Arms Export Control Act (22 U.S.C.
7 2751 et seq.) authorizes the executive branch to ad-
8 minister arms export policies enacted by Congress in
9 the exercise of its constitutional power to regulate
10 commerce with foreign nations.

11 (4) The executive branch has exercised its au-
12 thority under the Arms Export Control Act, in part,
13 through the International Traffic in Arms Regula-
14 tions.

15 (5) Agreements to gain exemption from the
16 International Traffic in Arms Regulations must be
17 submitted to Congress for review.

18 (b) DEFINITIONS.—In this section:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means—

22 (A) the Committee on Foreign Relations
23 and the Committee on Armed Services of the
24 Senate; and

1 (B) the Committee on International Rela-
2 tions and the Committee on Armed Services of
3 the House of Representatives.

4 (2) DEFENSE ITEMS.—The term “defense
5 items” has the meaning given the term in section 38
6 of the Arms Export Control Act (22 U.S.C. 2778).

7 (3) INTERNATIONAL TRAFFIC IN ARMS REGULA-
8 TIONS.—The term “International Traffic in Arms
9 Regulations” means the regulations maintained
10 under parts 120 through 130 of title 22, Code of
11 Federal Regulations, and any successor regulations.

12 (c) EXCEPTIONS FROM BILATERAL AGREEMENT RE-
13 QUIREMENTS.—

14 (1) IN GENERAL.—Subsection (j) of section 38
15 of the Arms Export Control Act (22 U.S.C. 2778)
16 is amended—

17 (A) by redesignating paragraph (4) as
18 paragraph (5); and

19 (B) by inserting after paragraph (3) the
20 following new paragraph (4):

21 “(4) EXCEPTIONS FROM BILATERAL AGREE-
22 MENT REQUIREMENTS.—

23 “(A) AUSTRALIA.—Subject to section 1055
24 of the National Defense Authorization Act for
25 Fiscal Year 2005, the requirements for a bilat-

1 eral agreement described in paragraph (2)(A)
2 shall not apply to a bilateral agreement between
3 the United States Government and the Govern-
4 ment of Australia with respect to transfers or
5 changes in end use of defense items within Aus-
6 tralia that will remain subject to the licensing
7 requirements of this Act after such agreement
8 enters into force.

9 “(B) UNITED KINGDOM.—Subject to sec-
10 tion 1055 of the National Defense Authoriza-
11 tion Act for Fiscal Year 2005, the requirements
12 for a bilateral agreement described in para-
13 graphs (1)(A)(ii), (2)(A)(i), and (2)(A)(ii) shall
14 not apply to a bilateral agreement between the
15 United States Government and the Government
16 of the United Kingdom for an exemption from
17 the licensing requirements of this Act.”.

18 (2) CONFORMING AMENDMENT.—Paragraph (2)
19 of such subsection is amended in the matter pre-
20 ceding subparagraph (A) by striking “A bilateral
21 agreement” and inserting “Except as provided in
22 paragraph (4), a bilateral agreement”.

23 (d) CERTIFICATIONS.—Not later than 30 days before
24 authorizing an exemption from the licensing requirements
25 of the International Traffic in Arms Regulations in ac-

1 cordance with any bilateral agreement entered into with
2 the United Kingdom or Australia under section 38(j) of
3 the Arms Export Control Act (22 U.S.C. 2778(j)), as
4 amended by subsection (c), the President shall certify to
5 the appropriate congressional committees that such
6 agreement—

7 (1) is in the national interest of the United
8 States and will not in any way affect the goals and
9 policy of the United States under section 1 of the
10 Arms Export Control Act (22 U.S.C. 2751);

11 (2) does not adversely affect the efficacy of the
12 International Traffic in Arms Regulations to provide
13 consistent and adequate controls for licensed exports
14 of United States defense items; and

15 (3) will not adversely affect the duties or re-
16 quirements of the Secretary of State under the Arms
17 Export Control Act.

18 (e) NOTIFICATION OF BILATERAL LICENSING EX-
19 EMPTIONS.—Not later than 30 days before authorizing an
20 exemption from the licensing requirements of the Inter-
21 national Traffic in Arms Regulations in accordance with
22 any bilateral agreement entered into with the United
23 Kingdom or Australia under section 38(j) of the Arms Ex-
24 port Control Act (22 U.S.C. 2778(j)), as amended by sub-
25 section (c), the President shall submit to the appropriate

1 congressional committees the text of the regulations that
2 authorize such a licensing exemption.

3 (f) REPORT ON CONSULTATION ISSUES.—Not later
4 than one year after the date of the enactment of this Act
5 and annually thereafter for each of the following 5 years,
6 the President shall submit to the appropriate congres-
7 sional committees a report on issues raised during the pre-
8 vious year in consultations conducted under the terms of
9 any bilateral agreement entered into with Australia under
10 section 38(j) of the Arms Export Control Act, or under
11 the terms of any bilateral agreement entered into with the
12 United Kingdom under such section, for exemption from
13 the licensing requirements of the Arms Export Control Act
14 (22 U.S.C. 2751 et seq.). Each report shall contain—

15 (1) information on any notifications or con-
16 sultations between the United States and the United
17 Kingdom under the terms of any agreement with the
18 United Kingdom, or between the United States and
19 Australia under the terms of any agreement with
20 Australia, concerning the modification, deletion, or
21 addition of defense items on the United States Mu-
22 nitions List, the United Kingdom Military List, or
23 the Australian Defense and Strategic Goods List;

24 (2) a list of all United Kingdom or Australia
25 persons and entities that have been designated as

1 qualified persons eligible to receive United States or-
2 igin defense items exempt from the licensing require-
3 ments of the Arms Export Control Act under the
4 terms of such agreements, and listing any modifica-
5 tion, deletion, or addition to such lists, pursuant to
6 the requirements of any agreement with the United
7 Kingdom or any agreement with Australia;

8 (3) information on consultations or steps taken
9 pursuant to any agreement with the United King-
10 dom or any agreement with Australia concerning co-
11 operation and consultation with either government
12 on the effectiveness of the defense trade control sys-
13 tems of such government;

14 (4) information on provisions and procedures
15 undertaken pursuant to—

16 (A) any agreement with the United King-
17 dom with respect to the handling of United
18 States origin defense items exempt from the li-
19 censing requirements of the Arms Export Con-
20 trol Act by persons and entities qualified to re-
21 ceive such items in the United Kingdom; and

22 (B) any agreement with Australia with re-
23 spect to the handling of United States origin
24 defense items exempt from the licensing re-
25 quirements of the Arms Export Control Act by

1 persons and entities qualified to receive such
2 items in Australia;

3 (5) information on any new understandings, in-
4 cluding the text of such understandings, between the
5 United States and the United Kingdom concerning
6 retransfer of United States origin defense items
7 made pursuant to any agreement with the United
8 Kingdom to gain exemption from the licensing re-
9 quirements of the Arms Export Control Act;

10 (6) information on consultations with the Gov-
11 ernment of the United Kingdom or the Government
12 of Australia concerning the legal enforcement of any
13 such agreements;

14 (7) information on United States origin defense
15 items with respect to which the United States has
16 provided an exception under the Memorandum of
17 Understanding between the United States and the
18 United Kingdom and any agreement between the
19 United States and Australia from the requirement
20 for United States Government re-export consent that
21 was not provided for under United States laws and
22 regulations in effect on the date of the enactment of
23 this Act; and

24 (8) information on any significant concerns that
25 have arisen between the Government of Australia or

1 the Government of the United Kingdom and the
2 United States Government concerning any aspect of
3 any bilateral agreement between such country and
4 the United States to gain exemption from the licens-
5 ing requirements of the Arms Export Control Act.

6 (g) SPECIAL NOTIFICATIONS.—

7 (1) REQUIRED NOTIFICATIONS.—The Secretary
8 of State shall notify the appropriate congressional
9 committees not later than 90 days after receiving
10 any credible information regarding an unauthorized
11 end-use or diversion of United States exports of
12 goods or services made pursuant to any agreement
13 with a country to gain exemption from the licensing
14 requirements of the Arms Export Control Act. The
15 notification shall be made in a manner that is con-
16 sistent with any ongoing efforts to investigate and
17 commence civil actions or criminal investigations or
18 prosecutions regarding such matters and may be
19 made in classified or unclassified form.

20 (2) CONTENT.—The notification regarding an
21 unauthorized end-use or diversion of goods or serv-
22 ices under paragraph (1) shall include—

23 (A) a description of the goods or services;

24 (B) the United States origin of the good or
25 service;

1 (C) the authorized recipient of the good or
2 service;

3 (D) a detailed description of the unauthor-
4 ized end-use or diversion, including any knowl-
5 edge by the United States exporter of such un-
6 authorized end-use or diversion;

7 (E) any enforcement action taken by the
8 Government of the United States; and

9 (F) any enforcement action taken by the
10 government of the recipient nation.

11 **SEC. 1059B. REDESIGNATION AND MODIFICATION OF AU-**
12 **THORITIES RELATING TO INSPECTOR GEN-**
13 **ERAL OF THE COALITION PROVISIONAL AU-**
14 **THORITY.**

15 (a) REDESIGNATION.—(1) Subsections (b) and (c)(1)
16 of section 3001 of the Emergency Supplemental Appro-
17 priations Act for Defense and Reconstruction of Iraq and
18 Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234;
19 5 U.S.C. App. 3 section 8G note) are each amended by
20 striking “Office of the Inspector General of the Coalition
21 Provisional Authority” and inserting “Office of the Special
22 Inspector General for Iraq Reconstruction”.

23 (2) Subsection (c)(1) of such section is further
24 amended by striking “Inspector General of the Coalition
25 Provisional Authority” and inserting “Special Inspector

1 General for Iraq Reconstruction (in this section referred
2 to as the ‘Inspector General’).”

3 (3)(A) The heading of such section is amended to
4 read as follows:

5 **“SEC. 3001. SPECIAL INSPECTOR GENERAL FOR IRAQ RE-**
6 **CONSTRUCTION.”.**

7 (B) The heading of title III of such Act is amended
8 to read as follows:

9 **“TITLE III—SPECIAL INSPECTOR**
10 **GENERAL FOR IRAQ RECON-**
11 **STRUCTION”.**

12 (b) CONTINUATION IN OFFICE.—The individual serv-
13 ing as the Inspector General of the Coalition Provisional
14 Authority as of the date of the enactment of this Act may
15 continue to serve in that position after that date without
16 reappointment under paragraph (1) of section 3001(c) of
17 the Emergency Supplemental Appropriations Act for De-
18 fense and Reconstruction of Iraq and Afghanistan, 2004,
19 but remaining subject to removal as specified in paragraph
20 (4) of that section.

21 (c) PURPOSES.—Subsection (a) of such section is
22 amended—

23 (1) in paragraph (1), by striking “of the Coali-
24 tion Provisional Authority (CPA)” and inserting
25 “funded with amounts appropriated or otherwise

1 made available to the Iraq Relief and Reconstruction
2 Fund”;

3 (2) in paragraph (2)(B), by striking “fraud”
4 and inserting “waste, fraud,”; and

5 (3) in paragraph (3), by striking “the head of
6 the Coalition Provisional Authority” and inserting
7 “the Secretary of State and the Secretary of De-
8 fense”.

9 (d) RESPONSIBILITIES OF ASSISTANT INSPECTOR
10 GENERAL FOR AUDITING.—Subsection (d)(1) of such sec-
11 tion is amended by striking “of the Coalition Provisional
12 Authority” and inserting “supported by the Iraq Relief
13 and Reconstruction Fund”.

14 (e) SUPERVISION.—Such section is further
15 amended—

16 (1) in subsection (e)(1), by striking “the head
17 of the Coalition Provisional Authority” and inserting
18 “the Secretary of State and the Secretary of De-
19 fense”;

20 (2) in subsection (h)—

21 (A) in paragraphs (4)(B) and (5), by strik-
22 ing “head of the Coalition Provisional Author-
23 ity” and inserting “Secretary of State”; and

24 (B) in paragraph (5), by striking “at the
25 central and field locations of the Coalition Pro-

1 visional Authority” and inserting “at appro-
2 priate locations of the Department of State in
3 Iraq”;

4 (3) in subsection (j)—

5 (A) in paragraph (1), by striking “the
6 head of the Coalition Provisional Authority”
7 and inserting “the Secretary of State and the
8 Secretary of Defense”; and

9 (B) in paragraph (2)—

10 (i) in subparagraph (A)—

11 (I) by striking “the head of the
12 Coalition Provisional Authority” the
13 first place it appears and inserting
14 “the Secretary of State or the Sec-
15 retary of Defense”; and

16 (II) by striking “the head of the
17 Coalition Provisional Authority con-
18 siders” the second place it appears
19 and inserting “the Secretary of State
20 or the Secretary of Defense, as the
21 case may be, consider”; and

22 (ii) in subparagraph (B), by striking
23 “the head of the Coalition Provisional Au-
24 thority considers” and inserting “the Sec-

1 retary of State or the Secretary of De-
2 fense, as the case may be, consider”; and
3 (4) in subsection (k), by striking “the head of
4 the Coalition Provisional Authority shall” each place
5 it appears and inserting “the Secretary of State and
6 the Secretary of Defense shall jointly”.

7 (f) DUTIES.—Subsection (f)(1) of such section is
8 amended by striking “appropriated funds by the Coalition
9 Provisional Authority in Iraq” and inserting “amounts ap-
10 propriated or otherwise made available to the Iraq Relief
11 and Reconstruction Fund”.

12 (g) COORDINATION WITH INSPECTOR GENERAL OF
13 DEPARTMENT OF STATE.—Subsection (f) of such section
14 is further amended striking paragraphs (4) and (5) and
15 inserting the following new paragraph (4):

16 “(4) In carrying out the duties, responsibilities, and
17 authorities of the Inspector General under this section, the
18 Inspector General shall coordinate with, and receive the
19 cooperation of, each of the following:

20 “(A) The Inspector General of the Department
21 of Defense.

22 “(B) The Inspector General of the United
23 States Agency for International Development.

24 “(C) The Inspector General of the Department
25 of State.”.

1 (h) POWERS AND AUTHORITIES.—Subsection (g) of
2 such section is amended by inserting before the period the
3 following: “, including the authorities under subsection (e)
4 of such section”.

5 (i) REPORTS.—Subsection (i) of such section is
6 amended—

7 (1) in paragraph (1)—

8 (A) in the first sentence, by striking “and
9 every calendar quarter thereafter,” and all that
10 follows through “the Coalition Provisional Au-
11 thority” and inserting “again on July 30, 2004,
12 and every calendar quarter thereafter, the In-
13 spector General shall submit to the appropriate
14 committees of Congress a report summarizing
15 the activities of the Inspector General and the
16 programs and operations funded with amounts
17 appropriated or otherwise made available to the
18 Iraq Relief and Reconstruction Fund”;

19 (B) in subparagraph (B), by striking “the
20 Coalition Provisional Authority” and inserting
21 “the Department of Defense, the Department
22 of State, and the United States Agency for
23 International Development, as applicable,”;

1 (C) in subparagraph (E), by striking “ap-
2 propriated funds” and inserting “such
3 amounts”; and

4 (D) in subparagraph (F), by striking “the
5 Coalition Provisional Authority” and inserting
6 “the contracting department or agency”;

7 (2) in paragraph (2), by striking “by the Coali-
8 tion Provisional Authority” and inserting “by any
9 department or agency of the United States Govern-
10 ment that involves the use of amounts appropriated
11 or otherwise made available to the Iraq Relief and
12 Reconstruction Fund”;

13 (3) in paragraph (3), by striking “June 30,
14 2004” and inserting “July 30, 2004”; and

15 (4) in paragraph (4), by striking “the Coalition
16 Provisional Authority” and inserting “the Depart-
17 ment of State and of the Department of Defense”.

18 (j) TERMINATION.—Subsection (o) of such section is
19 amended to read as follows:

20 “(o) TERMINATION.—The Office of the Inspector
21 General shall terminate on the date that is 10 months
22 after the date, as determined by the Secretary of State,
23 on which 80 percent of the amounts appropriated or other-
24 wise made available to the Iraq Relief and Reconstruction

1 Fund by chapter 2 of title II of this Act have been obli-
2 gated.”.

3 **SEC. 1059C. TREATMENT OF FOREIGN PRISONERS.**

4 (a) POLICY.—(1) It is the policy of the United States
5 to treat all foreign persons captured, detained, interned
6 or otherwise held in the custody of the United States
7 (hereinafter “prisoners”) humanely and in accordance
8 with standards that the United States would consider legal
9 if perpetrated by the enemy against an American prisoner.

10 (2) It is the policy of the United States that all
11 officials of the United States are bound both in war-
12 time and in peacetime by the legal prohibition
13 against torture, cruel, inhuman or degrading treat-
14 ment.

15 (3) If there is any doubt as to whether pris-
16 oners are entitled to the protections afforded by the
17 Geneva Conventions, such prisoners shall enjoy the
18 protections of the Geneva Conventions until such
19 time as their status can be determined pursuant to
20 the procedures authorized by Army Regulation 190–
21 8, Section 1–6.

22 (4) It is the policy of the United States to expe-
23 ditiously prosecute cases of terrorism or other crimi-
24 nal acts alleged to have been committed by prisoners
25 in the custody of the United States Armed Forces

1 at Guantanamo Bay, Cuba, in order to avoid the in-
2 definite detention of prisoners, which is contrary to
3 the legal principles and security interests of the
4 United States.

5 (b) REPORTING.—The Department of Defense shall
6 submit to the appropriate congressional committees:

7 (1) A quarterly report providing the number of
8 prisoners who were denied Prisoner of War (POW)
9 status under the Geneva Conventions and the basis
10 for denying POW status to each such prisoner.

11 (2) A report setting forth—

12 (A) the proposed schedule for military
13 commissions to be held at Guantanamo Bay,
14 Cuba; and

15 (B) the number of individuals currently
16 held at Guantanamo Bay, Cuba, the number of
17 such individuals who are unlikely to face a mili-
18 tary commission in the next six months, and
19 the reason(s) for not bringing such individuals
20 before a military commission.

21 (3) All International Committee of the Red
22 Cross reports, completed prior to the enactment of
23 this Act, concerning the treatment of prisoners in
24 United States custody at Guantanamo Bay, Cuba,
25 Iraq, and Afghanistan. Such ICRC reports should be

1 provided, in classified form, not later than 15 days
2 after enactment of this Act.

3 (4) A report setting forth all prisoner interroga-
4 tion techniques approved by officials of the United
5 States.

6 (c) ANNUAL TRAINING REQUIREMENT.—The De-
7 partment of Defense shall certify that all Federal employ-
8 ees and civilian contractors engaged in the handling and/
9 or interrogating of prisoners have fulfilled an annual
10 training requirement on the laws of war, the Geneva Con-
11 ventions and the obligations of the United States under
12 international humanitarian law.

13 **Subtitle G—Other Matters**

14 **SEC. 1061. TECHNICAL AMENDMENTS RELATING TO DEFINI-** 15 **NITIONS OF GENERAL APPLICABILITY IN** 16 **TITLE 10, UNITED STATES CODE.**

17 (a) CLARIFICATION OF DEFINITION OF “OPER-
18 ATIONAL RANGE”.—Section 101(e)(3) of title 10, United
19 States Code, is amended by striking “Secretary of De-
20 fense” and inserting “Secretary of a military depart-
21 ment”.

22 (b) AMENDMENTS RELATING TO DEFINITION OF
23 CONGRESSIONAL DEFENSE COMMITTEES.—(1) Section
24 2215 of title 10, United States Code, is amended—

25 (A) in subsection (a)—

1 (i) by striking “(a) CERTIFICATION RE-
2 QUIRED.—”; and

3 (ii) by striking “congressional committees
4 specified in subsection (b)” and inserting “con-
5 gressional defense committees”; and

6 (B) by striking subsection (b).

7 (2) Section 2515(d) of such title is amended—

8 (A) by striking “REPORT.—(1)” and inserting
9 “REPORT.—”;

10 (B) by striking “congressional committees spec-
11 ified in paragraph (2)” and inserting “congressional
12 defense committees”; and

13 (C) by striking paragraph (2).

14 (3) Section 2676(d) of such title is amended by strik-
15 ing “appropriate committees of Congress” in the first sen-
16 tence and inserting “congressional defense committees”.

17 **SEC. 1062. TWO-YEAR EXTENSION OF AUTHORITY OF SEC-**
18 **RETARY OF DEFENSE TO ENGAGE IN COM-**
19 **MERCIAL ACTIVITIES AS SECURITY FOR IN-**
20 **TELLIGENCE COLLECTION ACTIVITIES**
21 **ABROAD.**

22 Section 431(a) of title 10, United States Code, is
23 amended by striking “December 31, 2004” and inserting
24 “December 31, 2006”.

1 **SEC. 1063. LIABILITY PROTECTION FOR PERSONS VOLUN-**
2 **TARILY PROVIDING MARITIME-RELATED**
3 **SERVICES ACCEPTED BY THE NAVY.**

4 Section 1588(d)(1) of title 10, United States Code,
5 is amended by adding at the end the following new sub-
6 paragraph:

7 “(F) In the case of a person aboard a sailing
8 vessel of the Navy to engage in the training of Navy
9 personnel or in a competition involving Navy per-
10 sonnel, the following provisions of law relating to
11 claims in admiralty for damages or loss:

12 “(i) The Act entitled ‘An Act authorizing
13 suits against the United States in admiralty,
14 suits for salvage services, and providing for the
15 release of merchant vessels belonging to the
16 United States from arrest and attachment in
17 foreign jurisdictions, and for other purposes’,
18 approved March 9, 1920 (commonly known as
19 the ‘Suits in Admiralty Act’) (46 U.S.C. App.
20 741 et seq.).

21 “(ii) The Act entitled ‘An Act authorizing
22 suits against the United States in admiralty for
23 damage caused by and salvage services rendered
24 to public vessels belonging to the United States,
25 and for other purposes’, approved March 3,

1 “(A) Costs of securing trademark registra-
2 tions.

3 “(B) Costs of operating the licensing pro-
4 gram under this section.

5 “(2) For morale, welfare, and recreation activi-
6 ties under the jurisdiction of the Secretary, to the
7 extent (if any) that the total amount of the licensing
8 fees available under this section for a fiscal year ex-
9 ceed the total amount needed for such fiscal year
10 under paragraph (1).

11 “(d) AVAILABILITY.—Fees received in a fiscal year
12 and retained under this section shall be available for obli-
13 gations in such fiscal year and the following two fiscal
14 years.

15 “(e) DEFINITIONS.—In this section, the terms ‘trade-
16 mark’, ‘service mark’, ‘certification mark’, and ‘collective
17 mark’ have the meanings given such terms in section 45
18 of the Act entitled ‘An Act to provide for the registration
19 and protection of trademarks used in commerce, to carry
20 out the provisions of certain international conventions,
21 and for other purposes’, approved July 5, 1946 (commonly
22 referred to as the ‘Trademark Act of 1946’) (15 U.S.C.
23 1127).”.

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

“2260. Licensing of intellectual property: retention of fees.”.

4 **SEC. 1065. DELAY OF ELECTRONIC VOTING DEMONSTRATION PROJECT.**
 5

6 Section 1604(a) of the National Defense Authoriza-
 7 tion Act for Fiscal Year 2002 (Public Law 107–107; 115
 8 Stat. 1277; 42 U.S.C. 1973ff note) is amended—

9 (1) in paragraph (1), by striking “2002” and
 10 inserting “2006”; and

11 (2) in paragraph (2)—

12 (A) by striking “2002” and inserting
 13 “2006”; and

14 (B) by striking “2004” and inserting
 15 “2008”.

16 **SEC. 1066. WAR RISK INSURANCE FOR MERCHANT MARINE VESSELS.**
 17

18 (a) EXTENSION OF AUTHORITY.—Section 1214 of
 19 the Merchant Marine Act, 1936 (46 U.S.C. App. 1294)
 20 is amended by striking “June 30, 2005” and inserting
 21 “December 31, 2008”.

22 (b) INVESTMENT OF FUNDS EXCESS TO SHORT-
 23 TERM NEEDS.—Section 1208 of such Act (46 U.S.C. App.
 24 1288) is amended—

1 (1) by redesignating subsection (b) as sub-
2 section (c); and

3 (2) in subsection (a), by striking “Upon the re-
4 quest of the Secretary of Transportation,” and all
5 that follows and inserting the following:

6 “(b)(1) The Secretary of Transportation may request
7 the Secretary of the Treasury to invest such portion of
8 the insurance fund under subsection (a) as is not, in the
9 judgment of the Secretary of Transportation, required to
10 meet the current needs of the fund. The Secretary of the
11 Treasury may make the requested investments.

12 “(2) Investments under paragraph (1) shall be made
13 in public debt securities of the United States that—

14 “(A) mature at times suitable to the needs of
15 the insurance fund; and

16 “(B) bear interest rates determined by the Sec-
17 retary of the Treasury, taking into consideration
18 current market yields on outstanding marketable ob-
19 ligations of the United States of comparable matu-
20 rity.

21 “(3) The interest and benefits accruing from securi-
22 ties under this subsection shall be deposited to the credit
23 of the insurance fund.”.

1 **SEC. 1067. REPEAL OF QUARTERLY REPORTING REQUIRE-**
2 **MENT CONCERNING PAYMENTS FOR DIS-**
3 **TRICT OF COLUMBIA WATER AND SEWER**
4 **SERVICES AND ESTABLISHMENT OF ANNUAL**
5 **REPORT BY TREASURY.**

6 (a) WATER AND WATER SERVICE SUPPLIED FOR
7 THE USE OF THE GOVERNMENT OF THE UNITED
8 STATES.—Section 106(b)(5) of the District of Columbia
9 Public Works Act of 1954 (sec. 34–2401.25(b), D.C. Offi-
10 cial Code), as amended by section 401 of the Miscella-
11 neous Appropriations Act, 2001 (as enacted by reference
12 in section 1(a)(4) of the Consolidated Appropriations Act,
13 2001), is amended to read as follows:

14 “(5) Not later than the 15th day of the month fol-
15 lowing the beginning of the fiscal year (beginning with fis-
16 cal year 2005), the Secretary of the Treasury with respect
17 to each Federal department, establishment, or agency re-
18 ceiving water services from the District of Columbia shall
19 submit a report to the Committee on Government Reform
20 of the House of Representatives, the Committee on Gov-
21 ernmental Affairs of the Senate, and the Committees on
22 Appropriations of the House of Representatives and Sen-
23 ate analyzing the promptness of payment with respect to
24 the services furnished to such department, establishment,
25 or agency.”.

1 (b) SANITARY SEWER SERVICE CHARGES FOR
 2 UNITED STATES GOVERNMENT.—Section 212(b)(5) of
 3 the District of Columbia Public Works Act of 1954 (sec.
 4 34–2112(b), D.C. Official Code), as amended by section
 5 401 of the Miscellaneous Appropriations Act, 2001 (as en-
 6 acted by reference in section 1(a)(4) of the Consolidated
 7 Appropriations Act, 2001), is amended to read as follows:

8 “(5) Not later than the 15th day of the month fol-
 9 lowing the beginning of the fiscal year (beginning with fis-
 10 cal year 2005), the Secretary of the Treasury with respect
 11 to each Federal department, establishment, or agency re-
 12 ceiving sanitary sewer services from the District of Colum-
 13 bia shall submit a report to the Committee on Government
 14 Reform of the House of Representatives, the Committee
 15 on Governmental Affairs of the Senate, and the Commit-
 16 tees on Appropriations of the House of Representatives
 17 and Senate analyzing the promptness of payment with re-
 18 spect to the services furnished to such department, estab-
 19 lishment, or agency.”.

20 **SEC. 1068. RECEIPT OF PAY BY RESERVES FROM CIVILIAN**
 21 **EMPLOYERS WHILE ON ACTIVE DUTY IN CON-**
 22 **NECTION WITH A CONTINGENCY OPERATION.**

23 Section 209 of title 18, United States Code, is
 24 amended by adding at the end the following new sub-
 25 section:

1 “(h) This section does not prohibit a member of the
 2 reserve components of the armed forces on active duty
 3 pursuant to a call or order to active duty under a provision
 4 of law referred to in section 101(a)(13) of title 10 from
 5 receiving from any person that employed such member be-
 6 fore the call or order to active duty any payment of any
 7 part of the salary or wages that such person would have
 8 paid the member if the member’s employment had not
 9 been interrupted by such call or order to active duty.”.

10 **SEC. 1069. PROTECTION OF ARMED FORCES PERSONNEL**
 11 **FROM RETALIATORY ACTIONS FOR COMMU-**
 12 **NICATIONS MADE THROUGH THE CHAIN OF**
 13 **COMMAND.**

14 (a) **PROTECTED COMMUNICATIONS.**—Section
 15 1034(b)(1)(B) of title 10, United States Code, is
 16 amended—

17 (1) by striking “or” at the end of clause (iii)”;

18 and

19 (2) by striking clause (iv) and inserting the fol-
 20 lowing:

21 “(iv) any person or organization in the
 22 chain of command; or

23 “(v) any other person or organization des-
 24 ignated pursuant to regulations or other estab-

1 lished administrative procedures for such com-
2 munications.”.

3 (b) **EFFECTIVE DATE AND APPLICABILITY.**—This
4 section and the amendments made by this section shall
5 take effect on the date of the enactment of this Act and
6 shall apply with respect to any unfavorable personnel ac-
7 tion taken or threatened, and any withholding of or threat
8 to withhold a favorable personnel action, on or after that
9 date.

10 **SEC. 1070. MISSILE DEFENSE COOPERATION.**

11 (a) **DEPARTMENT OF STATE PROCEDURES FOR EX-**
12 **PEDITED REVIEW OF LICENSES FOR THE TRANSFER OF**
13 **DEFENSE ITEMS RELATED TO MISSILE DEFENSE.**—

14 (1) **EXPEDITED PROCEDURES.**—The Secretary
15 of State shall, in consultation with the Secretary of
16 Defense, establish procedures for considering tech-
17 nical assistance agreements and related amendments
18 and munitions license applications for the export of
19 defense items related to missile defense not later
20 than 30 days after receiving such agreements,
21 amendments, and munitions license applications, ex-
22 cept in cases in which the Secretary of State deter-
23 mines that additional time is required to complete a
24 review of a technical assistance agreement or related
25 amendment or a munitions license application for

1 foreign policy or national security reasons, including
2 concerns regarding the proliferation of ballistic mis-
3 sile technology.

4 (2) STUDY ON COMPREHENSIVE AUTHORIZA-
5 TIONS FOR MISSILE DEFENSE.—The Secretary of
6 State shall, in consultation with the Secretary of De-
7 fense, examine the feasibility of providing major
8 project authorizations for programs related to mis-
9 sile defense similar to the comprehensive export au-
10 thorization specified in section 126.14 of the Inter-
11 national Traffic in Arms Regulations (section
12 126.14 of title 22, Code of Federal Regulations).

13 (3) REPORT.—Not later than 180 days after
14 the date of the enactment of this Act, the Secretary
15 of State shall, in consultation with the Secretary of
16 Defense, submit to the Committee on Foreign Rela-
17 tions and the Committee on Armed Services of the
18 Senate and the Committee on International Rela-
19 tions and the Committee on Armed Services of the
20 House of Representatives a report on—

21 (A) the implementation of the expedited
22 procedures required under paragraph (1); and

23 (B) the feasibility of providing the major
24 project authorization for projects related to
25 missile defense described in paragraph (2).

1 (b) DEPARTMENT OF DEFENSE PROCEDURES FOR
2 EXPEDITED REVIEW OF LICENSES FOR THE TRANSFER
3 OF DEFENSE ITEMS RELATED TO MISSILE DEFENSE.—

4 (1) PROCEDURES.—Not later than 180 days
5 after the date of the enactment of this Act, the Sec-
6 retary of Defense shall, in consultation with the Sec-
7 retary of State, prescribe procedures to increase the
8 efficiency and transparency of the practices used by
9 the Department of Defense to review technical as-
10 sistance agreements and related amendments and
11 munitions license applications related to inter-
12 national cooperation on missile defense that are re-
13 ferred to the Department.

14 (2) REPORT.—Not later than 180 days after
15 the date of the enactment of this Act, the Secretary
16 of Defense, in consultation with the Secretary of
17 State, shall submit to the Committee on Armed
18 Services and the Committee on Foreign Relations of
19 the Senate and the Committee on Armed Services
20 and the Committee on International Relations of the
21 House of Representatives a report—

22 (A) describing actions taken by the Sec-
23 retary of Defense to coordinate with the Sec-
24 retary of State the establishment of the expe-

1 dited review process described in subsection
2 (a)(1);

3 (B) identifying key defense items related to
4 missile defense that are suitable for comprehen-
5 sive licensing procedures; and

6 (C) describing the procedures prescribed
7 pursuant to paragraph (1).

8 (c) DEFINITION OF DEFENSE ITEMS.—In this sec-
9 tion, the term “defense items” has the meaning given that
10 term in section 38(j)(4)(A) of the Arms Export Control
11 Act (22 U.S.C. 2778(j)(4)(A)).

12 **SEC. 1071. POLICY ON NONPROLIFERATION OF BALLISTIC**
13 **MISSILES.**

14 (a) POLICY.—It is the policy of the United States to
15 develop, support, and strengthen international accords and
16 other cooperative efforts to curtail the proliferation of bal-
17 listic missiles and related technologies which could threat-
18 en the territory of the United States, allies and friends
19 of the United States, and deployed members of the Armed
20 Forces of the United States with weapons of mass destruc-
21 tion.

22 (b) SENSE OF CONGRESS.—(1) Congress makes the
23 following findings:

24 (A) Certain countries are seeking to acquire
25 ballistic missiles and related technologies that could

1 be used to attack the United States or place at risk
2 United States interests, forward-deployed members
3 of the Armed Forces, and allies and friends of the
4 United States.

5 (B) Certain countries continue to actively trans-
6 fer or sell ballistic missile technologies in contraven-
7 tion of standards of behavior established by the
8 United States and allies and friends of the United
9 States.

10 (C) The spread of ballistic missiles and related
11 technologies worldwide has been slowed by a com-
12 bination of national and international export con-
13 trols, forward-looking diplomacy, and multilateral
14 interdiction activities to restrict the development and
15 transfer of such weapons and technologies.

16 (2) It is the sense of Congress that—

17 (A) the United States should vigorously pursue
18 foreign policy initiatives aimed at eliminating, reduc-
19 ing, or retarding the proliferation of ballistic missiles
20 and related technologies; and

21 (B) the United States and the international
22 community should continue to support and strength-
23 en established international accords and other coop-
24 erative efforts, including United Nations Security
25 Council Resolution 1540 and the Missile Technology

1 Control Regime, that are designed to eliminate, re-
2 duce, or retard the proliferation of ballistic missiles
3 and related technologies.

4 **SEC. 1072. REIMBURSEMENT FOR CERTAIN PROTECTIVE,**
5 **SAFETY, OR HEALTH EQUIPMENT PUR-**
6 **CHASED BY OR FOR MEMBERS OF THE**
7 **ARMED FORCES FOR DEPLOYMENT IN OPER-**
8 **ATIONS IN IRAQ AND CENTRAL ASIA.**

9 (a) REIMBURSEMENT REQUIRED.—(1) Subject to
10 subsections (c) and (d), the Secretary of Defense shall re-
11 imburse a member of the Armed Forces, or a person or
12 entity referred to in paragraph (2), for the cost (including
13 shipping cost) of any protective, safety, or health equip-
14 ment that was purchased by such member, or such person
15 or entity on behalf of such member, before or during the
16 deployment of such member in Operation Noble Eagle,
17 Operation Enduring Freedom, or Operation Iraqi Free-
18 dom for the use of such member in connection with such
19 operation if the unit commander of such member certifies
20 that such equipment was critical to the protection, safety,
21 or health of such member.

22 (2) A person or entity referred to in this paragraph
23 is a family member or relative of a member of the Armed
24 Forces, a non-profit organization, or a community group.

1 (b) COVERED PROTECTIVE, SAFETY, AND HEALTH
2 EQUIPMENT.—(1) Subject to paragraph (2), protective,
3 safety, and health equipment for which reimbursement
4 shall be made under subsection (a) shall include personal
5 body armor, collective armor or protective equipment (in-
6 cluding armor or protective equipment for high mobility
7 multi-purpose wheeled vehicles), and items provided
8 through the Rapid Fielding Initiative of the Army such
9 as the advanced (on-the-move) hydration system, the ad-
10 vanced combat helmet, the close combat optics system, a
11 Global Positioning System (GPS) receiver, and a soldier
12 intercommunication device.

13 (2) Non-military equipment may be treated as protec-
14 tive, safety, and health equipment for purposes of para-
15 graph (1) only if such equipment provides protection, safe-
16 ty, or health benefits, as the case may be, such as would
17 be provided by equipment meeting military specifications.

18 (c) LIMITATIONS REGARDING DATE OF PURCHASE
19 OF EQUIPMENT.—(1) In the case of armor or protective
20 equipment for high mobility multi-purpose wheeled vehi-
21 cles (known as HUMVEEs), reimbursement shall be made
22 under subsection (a) only for armor or equipment pur-
23 chased during the period beginning on September 11,
24 2001, and ending on July 31, 2004 or any date thereafter
25 as determined by the Secretary of Defense.

1 (2) In the case of any other protective, safety, and
2 health equipment, reimbursement shall be made under
3 subsection (a) only for equipment purchased during the
4 period beginning on September 11, 2001, and ending on
5 December 31, 2003 or any date thereafter as determined
6 by the Secretary of Defense.

7 (d) LIMITATION REGARDING AMOUNT OF REIM-
8 BURSEMENT.—The aggregate amount of reimbursement
9 provided under subsection (a) for any protective, safety,
10 and health equipment purchased by or on behalf of any
11 given member of the Armed Forces may not exceed the
12 lesser of—

13 (1) the cost of such equipment (including ship-
14 ping cost); or

15 (2) \$1,100.

16 (e) OWNERSHIP OF EQUIPMENT.—The Secretary
17 may provide, in regulations prescribed by the Secretary,
18 that the United States shall assume title or ownership of
19 any protective, safety, or health equipment for which reim-
20 bursement is provided under subsection (a).

21 (f) FUNDING.—Amounts for reimbursements under
22 subsection (a) shall be derived from any amounts author-
23 ized to be appropriated by this Act.

1 **SEC. 1073. PRESERVATION OF SEARCH AND RESCUE CAPA-**
2 **BILITIES OF THE FEDERAL GOVERNMENT.**

3 The Secretary of Defense may not reduce or elimi-
4 nate search and rescue capabilities at any military instal-
5 lation in the United States unless the Secretary first cer-
6 tifies to the Committees on Armed Services of the Senate
7 and the House of Representatives that equivalent search
8 and rescue capabilities will be provided, without interrup-
9 tion and consistent with the policies and objectives set
10 forth in the United States National Search and Rescue
11 Plan entered into force on January 1, 1999, by—

12 (1) the Department of Interior, the Department
13 of Commerce, the Department of Homeland Secu-
14 rity, the Department of Transportation, the Federal
15 Communications Commission, or the National Aero-
16 nautics and Space Administration; or

17 (2) the Department of Defense, either directly
18 or through a Department of Defense contract with
19 an emergency medical service provider or other pri-
20 vate entity to provide such capabilities.

21 **SEC. 1074. GRANT OF FEDERAL CHARTER TO KOREAN WAR**
22 **VETERANS ASSOCIATION, INCORPORATED.**

23 (a) GRANT OF CHARTER.—Part B of subtitle II of
24 title 36, United States Code, is amended—

25 (1) by striking the following:

1 **“CHAPTER 1201—[RESERVED]”**; and

2 (2) by inserting the following:

3 **“CHAPTER 1201—KOREAN WAR VETERANS**

4 **ASSOCIATION, INCORPORATED**

“Sec.

“120101. Organization.

“120102. Purposes.

“120103. Membership.

“120104. Governing body.

“120105. Powers.

“120106. Restrictions.

“120107. Duty to maintain corporate and tax-exempt status.

“120108. Records and inspection.

“120109. Service of process.

“120110. Liability for acts of officers and agents.

“120111. Annual report.

5 **“§ 120101. Organization**

6 “(a) FEDERAL CHARTER.—Korean War Veterans
7 Association, Incorporated (in this chapter, the ‘corpora-
8 tion’), incorporated in the State of New York, is a feder-
9 ally chartered corporation.

10 “(b) EXPIRATION OF CHARTER.—If the corporation
11 does not comply with the provisions of this chapter, the
12 charter granted by subsection (a) expires.

13 **“§ 120102. Purposes**

14 “The purposes of the corporation are as provided in
15 its articles of incorporation and include—

16 “(1) organizing, promoting, and maintaining
17 for benevolent and charitable purposes an associa-
18 tion of persons who have seen honorable service in

1 the Armed Forces during the Korean War, and of
2 certain other persons;

3 “(2) providing a means of contact and commu-
4 nication among members of the corporation;

5 “(3) promoting the establishment of, and estab-
6 lishing, war and other memorials commemorative of
7 persons who served in the Armed Forces during the
8 Korean War; and

9 “(4) aiding needy members of the corporation,
10 their wives and children, and the widows and chil-
11 dren of persons who were members of the corpora-
12 tion at the time of their death.

13 **“§ 120103. Membership**

14 “Eligibility for membership in the corporation, and
15 the rights and privileges of members of the corporation,
16 are as provided in the bylaws of the corporation.

17 **“§ 120104. Governing body**

18 “(a) BOARD OF DIRECTORS.—The board of directors
19 of the corporation, and the responsibilities of the board
20 of directors, are as provided in the articles of incorporation
21 of the corporation.

22 “(b) OFFICERS.—The officers of the corporation, and
23 the election of the officers of the corporation, are as pro-
24 vided in the articles of incorporation.

1 **“§ 120105. Powers**

2 “The corporation has only the powers provided in its
3 bylaws and articles of incorporation filed in each State in
4 which it is incorporated.

5 **“§ 120106. Restrictions**

6 “(a) STOCK AND DIVIDENDS.—The corporation may
7 not issue stock or declare or pay a dividend.

8 “(b) POLITICAL ACTIVITIES.—The corporation, or a
9 director or officer of the corporation as such, may not con-
10 tribute to, support, or participate in any political activity
11 or in any manner attempt to influence legislation.

12 “(c) LOAN.—The corporation may not make a loan
13 to a director, officer, or employee of the corporation.

14 “(d) CLAIM OF GOVERNMENTAL APPROVAL OR AU-
15 THORITY.—The corporation may not claim congressional
16 approval, or the authority of the United States, for any
17 of its activities.

18 **“§ 120107. Duty to maintain corporate and tax-ex-**
19 **empt status**

20 “(a) CORPORATE STATUS.—The corporation shall
21 maintain its status as a corporation incorporated under
22 the laws of the State of New York.

23 “(b) TAX-EXEMPT STATUS.—The corporation shall
24 maintain its status as an organization exempt from tax-
25 ation under the Internal Revenue Code of 1986 (26 U.S.C.
26 1 et seq.).

1 **“§ 120108. Records and inspection**

2 “(a) RECORDS.—The corporation shall keep—

3 “(1) correct and complete records of account;

4 “(2) minutes of the proceedings of its members,
5 board of directors, and committees having any of the
6 authority of its board of directors; and

7 “(3) at its principal office, a record of the
8 names and addresses of its members entitled to vote
9 on matters relating to the corporation.

10 “(b) INSPECTION.—A member entitled to vote on
11 matters relating to the corporation, or an agent or attor-
12 ney of the member, may inspect the records of the cor-
13 poration for any proper purpose, at any reasonable time.

14 **“§ 120109. Service of process**

15 “The corporation shall have a designated agent in the
16 District of Columbia to receive service of process for the
17 corporation. Notice to or service on the agent is notice
18 to or service on the Corporation.

19 **“§ 120110. Liability for acts of officers and agents**

20 “The corporation is liable for the acts of its officers
21 and agents acting within the scope of their authority.

22 **“§ 120111. Annual report**

23 “The corporation shall submit an annual report to
24 Congress on the activities of the corporation during the
25 preceding fiscal year. The report shall be submitted at the
26 same time as the report of the audit required by section

1 10101 of this title. The report may not be printed as a
2 public document.”.

3 (b) CLERICAL AMENDMENT.—The table of chapters
4 at the beginning of subtitle II of title 36, United States
5 Code, is amended by striking the item relating to chapter
6 1201 and inserting the following new item:

“1201. Korean War Veterans Association, Incorporated120101”.

7 **SEC. 1075. COORDINATION OF USERRA WITH THE INTER-**
8 **NAL REVENUE CODE OF 1986.**

9 (a) FINDINGS.—Congress makes the following find-
10 ings:

11 (1) Employers of reservists called up for active
12 duty are required to treat them as if they are on a
13 leave of absence or furlough under the Uniformed
14 Services Employment and Reemployment Rights Act
15 of 1994 (in this section referred to as “USERRA”).

16 (2) USERRA does not require employers to pay
17 reservists who are on active duty, but many employ-
18 ers pay the reservists the difference between their
19 military stipends and their regular salaries. Some
20 employers provide this “differential pay” for up to
21 3 years.

22 (3) For employee convenience, many of these
23 employers also allow deductions from the differential
24 payments for contributions to employer-provided re-
25 tirement savings plans.

1 (b) SENSE OF THE SENATE.—It is the sense of the
2 Senate that the Internal Revenue Service should, to the
3 extent it is able within its authority, provide guidance con-
4 sistent with the goal of promoting and ensuring the valid-
5 ity of voluntary differential pay arrangements, benefits
6 payments, and contributions to retirement savings plans
7 related thereto.

8 **SEC. 1076. AERIAL FIREFIGHTING EQUIPMENT.**

9 (a) FINDINGS.—Congress makes the following find-
10 ings:

11 (1) The National Interagency Fire Center does
12 not possess an adequate number of aircraft for use
13 in aerial firefighting and personnel at the Center
14 rely on military aircraft to provide such firefighting
15 services.

16 (2) It is in the national security interest of the
17 United States for the National Interagency Fire
18 Center to purchase aircraft for use in aerial fire-
19 fighting so that military aircraft used for aerial fire-
20 fighting may be available for use by the Armed
21 Forces.

22 (b) AUTHORITY TO PURCHASE AERIAL FIRE-
23 FIGHTING EQUIPMENT.—(1) The Secretary of Agriculture
24 is authorized to purchase 10 aircraft, as described in para-

1 graph (2), for the National Interagency Fire Center for
2 use in aerial firefighting.

3 (2) The aircraft referred to in paragraph (1) shall
4 be—

5 (A) aircraft that are specifically designed and
6 built for aerial firefighting;

7 (B) certified by the Administrator of the Fed-
8 eral Aviation Administration for use in aerial fire-
9 fighting; and

10 (C) manufactured in a manner that is con-
11 sistent with the recommendations for aircraft used
12 in aerial firefighting contained in—

13 (i) the Blue Ribbon Panel Report to the
14 Chief of the Forest Service and the Director of
15 the Bureau of Land Management dated Decem-
16 ber 2002; and

17 (ii) the Safety Recommendation of the
18 Chairman of the National Transportation Safe-
19 ty Board related to aircraft used in aerial fire-
20 fighting dated April 23, 2004.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to the Secretary of Agri-
23 culture for fiscal year 2005 such funds as may be nec-
24 essary to purchase the 10 aircraft described in subsection
25 (b).

1 **SEC. 1077. SENSE OF SENATE ON AMERICAN FORCES RADIO**
2 **AND TELEVISION SERVICE.**

3 (a) FINDINGS.—The Senate makes the following
4 findings:

5 (1) It is the mission of the American Forces
6 Radio and Television Service to provide United
7 States military commanders overseas and at sea
8 with a broadcast media resource to effectively com-
9 municate Department of Defense, Service-unique,
10 theater, and local command information to personnel
11 under their commands and to provide United States
12 military members, Department of Defense civilians,
13 and their families stationed outside the continental
14 United States and at sea with the same type and
15 quality of American radio and television news, infor-
16 mation, sports, and entertainment that would be
17 available to them if they were in the continental
18 United States.

19 (2) Key principles of American Forces Radio
20 and Television Service broadcasting policy, as out-
21 lined in Department of Defense Regulation
22 5120.20R, are to ensure political programming char-
23 acterized by fairness and balance and to provide a
24 free flow of political programming from United
25 States commercial and public networks without ma-
26 nipulation or censorship of any news content to the

1 men and women of the Armed Forces and their de-
2 pendants.

3 (3) The stated policy of the American Forces
4 Radio and Television Service is to select program-
5 ming that represents a cross-section of popular
6 American radio and television offerings and to emu-
7 late stateside scheduling and programming seen and
8 heard in the United States.

9 (4) It is the policy of American Forces Radio
10 and Television Service to select news and public af-
11 fairs programs for airing that provide balance and
12 diversity from available nationally recognized pro-
13 gram sources, including broadcast and cable net-
14 works, Headquarters, American Forces Radio and
15 Television Service, the military departments, and
16 other government or public service agencies.

17 (b) SENSE OF THE SENATE.—It is the sense of the
18 Senate that the mission statement and policies of the
19 American Forces Radio and Television Service appro-
20 priately state the goal of maintaining equal opportunity
21 balance with respect to political programming and that the
22 Secretary of Defense should therefore ensure that these
23 policies are fully being implemented by developing appro-
24 priate methods of oversight to ensure presentation of all
25 sides of important public questions with the fairness and

1 balance envisioned by the Department of Defense through-
2 out the American Forces Radio and Television Service sys-
3 tem.

4 **SEC. 1078. SENSE OF CONGRESS ON AMERICA'S NATIONAL**
5 **WORLD WAR I MUSEUM.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) The Liberty Memorial Museum in Kansas
9 City, Missouri, was built in 1926 in honor of those
10 individuals who served in World War I in defense of
11 liberty and the Nation.

12 (2) The Liberty Memorial Association, a non-
13 profit organization which originally built the Liberty
14 Memorial Museum, is responsible for the finances,
15 operations, and collections management of the Lib-
16 erty Memorial Museum.

17 (3) The Liberty Memorial Museum is the only
18 public museum in the Nation that exists for the ex-
19 clusive purpose of interpreting the experiences of the
20 United States and its allies in the World War I
21 years (1914–1918), both on the battlefield and on
22 the home front.

23 (4) The Liberty Memorial Museum project
24 began after the 1918 Armistice through the efforts
25 of a large-scale, grass-roots civic and fundraising ef-

1 fort by the citizens and veterans of the Kansas City
2 metropolitan area. After the conclusion of a national
3 architectural design competition, ground was broken
4 in 1921, construction began in 1923, and the Lib-
5 erty Memorial Museum was opened to the public in
6 1926.

7 (5) In 1994, the Liberty Memorial Museum
8 closed for a massive restoration and expansion
9 project. The restored museum reopened to the public
10 on Memorial Day, 2002, during a gala rededication
11 ceremony.

12 (6) Exhibits prepared for the original museum
13 buildings presaged the dramatic, underground ex-
14 pansion of core exhibition gallery space, with over
15 30,000 square feet of new interpretive and edu-
16 cational exhibits currently in development. The new
17 exhibits, along with an expanded research library
18 and archives, will more fully utilize the many thou-
19 sands of historical objects, books, maps, posters,
20 photographs, diaries, letters, and reminiscences of
21 World War I participants that are preserved for pos-
22 terity in the Liberty Memorial Museum's collections.
23 The new core exhibition is scheduled to open on Vet-
24 erans Day, 2006.

1 (7) The City of Kansas City, the State of Mis-
2 souri, and thousands of private donors and philan-
3 thropic foundations have contributed millions of dol-
4 lars to build and later to restore this national treas-
5 ure. The Liberty Memorial Museum continues to re-
6 ceive the strong support of residents from the States
7 of Missouri and Kansas and across the Nation.

8 (8) Since the restoration and rededication of
9 2002, the Liberty Memorial Museum has attracted
10 thousands of visitors from across the United States
11 and many foreign countries.

12 (9) There remains a need to preserve in a mu-
13 seum setting evidence of the honor, courage, patriot-
14 ism, and sacrifice of those Americans who offered
15 their services and who gave their lives in defense of
16 liberty during World War I, evidence of the roles of
17 women and African Americans during World War I,
18 and evidence of other relevant subjects.

19 (10) The Liberty Memorial Museum seeks to
20 educate a diverse group of audiences through its
21 comprehensive collection of historical materials, em-
22 phasizing eyewitness accounts of the participants on
23 the battlefield and the home front and the impact of
24 World War I on individuals, then and now. The Lib-

1 erty Memorial Museum continues to actively acquire
2 and preserve such materials.

3 (11) A great opportunity exists to use the in-
4 valuable resources of the Liberty Memorial Museum
5 to teach the “Lessons of Liberty” to the Nation’s
6 schoolchildren through on-site visits, classroom cur-
7 rriculum development, distance learning, and other
8 educational initiatives.

9 (12) The Liberty Memorial Museum should al-
10 ways be the Nation’s museum of the national experi-
11 ence in the World War I years (1914–1918), where
12 people go to learn about this critical period and
13 where the Nation’s history of this monumental
14 struggle will be preserved so that generations of the
15 21st century may understand the role played by the
16 United States in the preservation and advancement
17 of democracy, freedom, and liberty in the early 20th
18 century.

19 (13) This initiative to recognize and preserve
20 the history of the Nation’s sacrifices in World War
21 I will take on added significance as the Nation ap-
22 proaches the centennial observance of this event.

23 (14) It is fitting and proper to refer to the Lib-
24 erty Memorial Museum as “America’s National
25 World War I Museum”.

1 (b) SENSE OF CONGRESS.—Congress—

2 (1) recognizes the Liberty Memorial Museum in
3 Kansas City, Missouri, including the museum’s fu-
4 ture and expanded exhibits, collections, library, ar-
5 chives, and educational programs, as “America’s Na-
6 tional World War I Museum”;

7 (2) recognizes that the continuing collection,
8 preservation, and interpretation of the historical ob-
9 jects and other historical materials held by the Lib-
10 erty Memorial Museum enhance the knowledge and
11 understanding of the Nation’s people of the Amer-
12 ican and allied experience during the World War I
13 years (1914–1918), both on the battlefield and on
14 the home front;

15 (3) commends the ongoing development and vis-
16 ibility of “Lessons of Liberty” educational outreach
17 programs for teachers and students throughout the
18 Nation; and

19 (4) encourages the need for present generations
20 to understand the magnitude of World War I, how
21 it shaped the Nation, other countries, and later
22 world events, and how the sacrifices made then
23 helped preserve liberty, democracy, and other found-
24 ing principles for generations to come.

1 **SEC. 1079. REDUCTION OF BARRIERS FOR HISPANIC-SERV-**
2 **ING INSTITUTIONS IN DEFENSE CONTRACTS,**
3 **DEFENSE RESEARCH PROGRAMS, AND**
4 **OTHER MINORITY-RELATED DEFENSE PRO-**
5 **GRAMS.**

6 Section 502(a)(5)(C) of the Higher Education Act of
7 1965 (20 U.S.C. 1101a(a)(5)(C)) is amended by inserting
8 before the period the following: “, which assurances—

9 “(i) may employ statistical extrapola-
10 tion using appropriate data from the Bu-
11 reau of the Census or other appropriate
12 Federal or State sources; and

13 “(ii) the Secretary shall consider as
14 meeting the requirements of this subpara-
15 graph, unless the Secretary determines,
16 based on a preponderance of the evidence,
17 that the assurances do not meet the re-
18 quirements”.

19 **SEC. 1080. EXTENSION OF SCOPE AND JURISDICTION FOR**
20 **CURRENT FRAUD OFFENSES.**

21 (a) STATEMENTS OR ENTRIES GENERALLY.—Section
22 1001 of title 18, United States Code, is amended by add-
23 ing at the end the following:

24 “(d) JURISDICTION.—There is extraterritorial Fed-
25 eral jurisdiction over an offense under this section.

1 “(e) PROSECUTION.—A prosecution for an offense
2 under this section may be brought—

3 “(1) in accordance with chapter 211 of this
4 title; or

5 “(2) in any district where any act in further-
6 ance of the offense took place.”.

7 (b) MAJOR FRAUD AGAINST THE UNITED STATES.—
8 Section 1031 of title 18, United States Code, is amended
9 by adding at the end the following:

10 “(i) JURISDICTION.—There is extraterritorial Fed-
11 eral jurisdiction over an offense under this section.

12 “(j) PROSECUTION.—A prosecution for an offense
13 under this section may be brought—

14 “(1) in accordance with chapter 211 of this
15 title;

16 “(2) in any district where any act in further-
17 ance of the offense took place; or

18 “(3) in any district where any party to the con-
19 tract or provider of goods or services is located.”.

20 **SEC. 1081. CONTRACTOR ACCOUNTABILITY.**

21 Section 3267(1)(A) of title 18, United States Code,
22 is amended to read as follows:

23 “(A) employed as—

24 “(i) a civilian employee of—

1 “(I) the Department of Defense
2 (including a nonappropriated fund in-
3 strumentality of the Department); or

4 “(II) any other Federal agency,
5 or any provisional authority, to the
6 extent such employment relates to
7 supporting the mission of the Depart-
8 ment of Defense overseas;

9 “(ii) a contractor (including a subcon-
10 tractor at any tier) of—

11 “(I) the Department of Defense
12 (including a nonappropriated fund in-
13 strumentality of the Department); or

14 “(II) any other Federal agency,
15 or any provisional authority, to the
16 extent such employment relates to
17 supporting the mission of the Depart-
18 ment of Defense overseas; or

19 “(iii) an employee of a contractor (or
20 subcontractor at any tier) of—

21 “(I) the Department of Defense
22 (including a nonappropriated fund in-
23 strumentality of the Department); or

24 “(II) any other Federal agency,
25 or any provisional authority, to the

1 extent such employment relates to
2 supporting the mission of the Depart-
3 ment of Defense overseas;”.

4 **SEC. 1082. DEFINITION OF UNITED STATES.**

5 Section 2340(3) of title 18, United States Code, is
6 amended to read as follows:

7 “(3) ‘United States’ means the several States of
8 the United States, the District of Columbia, and the
9 commonwealths, territories, and possessions of the
10 United States.”.

11 **SEC. 1083. MENTOR-PROTEGE PILOT PROGRAM.**

12 Section 831(m)(2) of the National Defense Author-
13 ization Act for Fiscal Year 1991 (Public Law 101–510;
14 10 U.S.C. 2302 note) is amended—

15 (1) in subparagraph (D), by striking “or” at
16 the end;

17 (2) in subparagraph (E), by striking the period
18 at the end and inserting a semicolon; and

19 (3) by adding at the end the following:

20 “(F) a small business concern owned and
21 controlled by service–disabled veterans (as de-
22 fined in section 8(d)(3) of the Small Business
23 Act); and

1 “(G) a qualified HUBZone small business
2 concern (as defined in section 3(p) of the Small
3 Business Act).”.

4 **SEC. 1084. BROADCAST DECENCY ENFORCEMENT ACT OF**
5 **2004.**

6 (a) **SHORT TITLE.**—This section may be cited as the
7 “Broadcast Decency Enforcement Act of 2004”.

8 (b) **PURPOSE.**—The purpose of this section is to in-
9 crease the Federal Communications Commission’s (FCC)
10 authority to fine for indecent broadcasts and prevent fur-
11 ther relaxation of the media ownership rules in order to
12 stem the rise of indecent programming.

13 (c) **FINDINGS.**—The Congress makes the following
14 findings:

15 (1) Since 1996 there has been significant con-
16 solidation in the media industry, including:

17 (A) **RADIO.**—Clear Channel Communica-
18 tions went from owning 43 radio stations prior
19 to 1996 to over 1,200 as of January 2003; Cu-
20 mulus Broadcasting, Inc. was established in
21 1997 and owned 266 stations as of December
22 2003, making it the second-largest radio owner-
23 ship company in the country; and Infinity
24 Broadcasting Corporation went from owning 43

1 radio stations prior to 1996 to over 185 sta-
2 tions as of June 2004;

3 (B) TELEVISION.—Viacom/CBS’s national
4 ownership of television stations increased from
5 31.53 percent of United States television house-
6 holds prior to 1996 to 38.9 percent in 2004;
7 GE/NBC’s national ownership of television sta-
8 tions increased from 24.65 percent prior to
9 1996 to 33.56 percent in 2004; News Corp./
10 Fox’s national ownership of television stations
11 increased from 22.05 percent prior to 1996 to
12 37.7 percent in 2004;

13 (C) MEDIA MERGERS.—In 2000, Viacom
14 merged with CBS and UPN; in 2002, GE/NBC
15 merged with Telemundo Communications, Inc.
16 and in 2004 with Vivendi Universal Entertain-
17 ment; in 2003 News Corp./Fox acquired a con-
18 trolling interest in DirecTV; in 2000, Time
19 Warner, Inc. merged with America Online.

20 (2) Over the same period that there has been
21 significant consolidation in the media industry, the
22 number of indecency complaints also has increased
23 dramatically. The largest owners of television and
24 radio broadcast holdings have received the greatest

1 number of indecency complaints and the largest
2 fines, including:

3 (A) Over 80 percent of the fines proposed
4 by the Federal Communications Commission for
5 indecent broadcasts were against stations
6 owned by two of the top three radio companies.
7 The top radio company alone accounts for over
8 two-thirds of the fines proposed by the FCC;

9 (B) Two of the largest fines proposed by
10 the FCC were against two of the top three
11 radio companies;

12 (C) In 2004, the FCC received over
13 500,000 indecency complaints in response to
14 the Superbowl Halftime show aired on CBS and
15 produced by MTV, both of which are owned by
16 Viacom. This is the largest number of com-
17 plaints ever received by the FCC for a single
18 broadcast;

19 (D) The number of indecency complaints
20 increased from 111 in 2000 to 240,350 in
21 2003;

22 (3) Media conglomerates do not consider or re-
23 flect local community standards.

24 (A) The FCC has no record of a television
25 station owned by one of the big four networks

1 (Viacom/CBS, Disney/ABC, News Corp./Fox or
2 GE/NBC) pre-empting national programming
3 for failing to meet community standards;

4 (B) FCC records show that non-network
5 owned stations have often rejected national net-
6 work programming found to be indecent and of-
7 fensive to local community standards;

8 (C) A letter from an owned and operated
9 station manager to a viewer stated that pro-
10 gramming decisions are made by network head-
11 quarters and not the local owned and operated
12 television station management;

13 (D) The Parents Television Council has
14 found that the “losers” of network ownership
15 “are the local communities whose standards of
16 decency are being ignored;”

17 (4) The Senate Commerce Committee has
18 found that the current fines do not deter indecent
19 broadcast because they are merely the cost of doing
20 business for large media companies. Therefore, in
21 order to prevent the continued rise of indecency vio-
22 lations, the FCC’s authority for indecency fines
23 should be increased and further media consolidation
24 should be prevented.

1 (d) INCREASE IN PENALTIES FOR OBSCENE, INDE-
2 CENT, AND PROFANE BROADCAST.—Section 503(b)(2) of
3 the Communications Act of 1934 (47 U.S.C. 503(b)(2))
4 is amended.—

5 (1) by redesignating subparagraphs (C) and
6 (D) as subparagraphs (D) and (E), respectively;

7 (2) by inserting after subparagraph (B) the fol-
8 lowing new subparagraph:

9 “(C) Notwithstanding subparagraph (A), if the
10 violator is—

11 “(i)(I) a broadcast station licensee or per-
12 mittee; or

13 “(II) an applicant for any broadcast li-
14 cense, permit, certificate, or other instrument
15 or authorization issued by the Commission; and

16 “(ii) determined by the Commission under
17 paragraph (1) to have broadcast obscene, inde-
18 cent, or profane language, the amount of any
19 forfeiture penalty determined under this sub-
20 section shall not exceed \$275,000 for each vio-
21 lation or each day of a continuing violation, ex-
22 cept that the amount assessed for any con-
23 tinuing violation shall not exceed a total of
24 \$3,000,000 for any single act or failure to
25 act.”; and

1 (3) in subparagraph (D), as redesignated by
2 paragraph (1), by striking “subparagraph (A) or
3 (B)” and inserting “subparagraph (A), (B), or (C)”.

4 (e) NEW BROADCAST MEDIA OWNERSHIP RULES
5 SUSPENDED.—

6 (1) SUSPENSION.—Subject to the provisions of
7 paragraphs(d)(2), the broadcast media ownership
8 rules adopted by the Federal Communications Com-
9 mission on June 2, 2003, pursuant to its proceeding
10 on broadcast media ownership rules, Report and
11 Order FCC–03–127, published at 68 FR 46286, Au-
12 gust 5, 2003, shall be invalid and without legal ef-
13 fect.

14 (2) CLARIFICATION.—The provisions of para-
15 graph (1) shall not supersede the amendments made
16 by section 629 of the Miscellaneous Appropriations
17 and Offsets Act, 2004 (Public Law 108–199).

18 (f) ADDITIONAL FACTORS IN INDECENCY PEN-
19 ALTIES; EXCEPTION.—Section 503(b)(2) of the Commu-
20 nications Act of 1934 (47 U.S.C. 503(b)(2)), is further
21 amended by adding at the end the following:

22 “(F) In the case of a violation in which the violator
23 is determined by the Commission under paragraph (1) to
24 have uttered obscene, indecent, or profane material, the
25 Commission shall take into account, in addition to the

1 matters described in subparagraph (E), the following fac-
2 tors with respect to the degree of culpability of the viola-
3 tor:

4 “(i) Whether the material uttered by the viola-
5 tor was live or recorded, scripted or unscripted.

6 “(ii) Whether the violator had a reasonable op-
7 portunity to review recorded or scripted program-
8 ming or had a reasonable basis to believe live or
9 unscripted programming would contain obscene, in-
10 decent, or profane material.

11 “(iii) If the violator originated live or
12 unscripted programming, whether a time delay
13 blocking mechanism was implemented for the pro-
14 gramming.

15 “(iv) The size of the viewing or listening audi-
16 ence of the programming.

17 “(v) Whether the obscene incident or profane
18 language was within live programming not produced
19 by the station licensee or permittee.

20 “(vi) The size of the market.

21 “(vii) Whether the violation occurred during a
22 children’s television program (as such term is used
23 in the Children’s Television Programming Policy ref-
24 erenced in section 73.4050(e) of the Commission’s
25 regulations (47 C.F.R. 73.4050(e)) or during a tele-

1 vision program rated TVY, TVY7, TVY7FV, or
2 TVG under the TV Parental Guidelines as such rat-
3 ings were approved by the Commission in implemen-
4 tation of section 551 of the Telecommunications Act
5 of 1996, Video Programming Ratings, Report and
6 Order, CS Docket No. 97-55, 13 F.C.C. Red. 8232
7 (1998)), and, with respect to a radio broadcast sta-
8 tion licensee, permittee, or applicant, whether the
9 target audience was primarily comprised of, or
10 should reasonably have been expected to be primarily
11 comprised of, children.”

12 “(G) The Commission may double the amount of any
13 forfeiture penalty (not to exceed \$550,000 for the first vio-
14 lation, \$750,000 for the second violation, and \$1,000,000
15 for the third or any subsequent violation not to exceed up
16 to \$3,000,000 for all violations in a 24-hour time period
17 notwithstanding section 503(b)(2)(C)) if the Commission
18 determines additional factors are present which are aggra-
19 vating in nature, including—

20 “(i) whether the material uttered by the violator
21 was recorded or scripted;

22 “(ii) whether the violator had a reasonable op-
23 portunity to review recorded or scripted program-
24 ming or had a reasonable basis to believe live or

1 unscripted programming would contain obscene, in-
2 decent, or profane material;

3 “(iii) whether the violator failed to block live or
4 unscripted programming;

5 “(iv) whether the size of the viewing or listen-
6 ing audience of the programming was substantially
7 larger than usual, such as a national or international
8 championship sporting event or awards program;
9 and

10 “(v) whether the violation occurred during a
11 children’s television program (as defined in subpara-
12 graph (F) (vii)).”

13 **SEC. 1085. CHILDREN’S PROTECTION FROM VIOLENT PRO-**
14 **GRAMMING ACT.**

15 (a) **SHORT TITLE.**—This section may be cited as the
16 “Children’s Protection from Violent Programming Act”.

17 (b) **FINDINGS.**—The Congress makes the following
18 findings:

19 (1) Television influences children’s perception
20 of the values and behavior that are common and ac-
21 ceptable in society.

22 (2) Broadcast television, cable television, and
23 video programming are—

24 (A) uniquely pervasive presences in the
25 lives of all American children; and

1 (B) readily accessible to all American chil-
2 dren.

3 (3) Violent video programming influences chil-
4 dren, as does indecent programming.

5 (4) There is empirical evidence that children ex-
6 posed to violent video programming at a young age
7 have a higher tendency to engage in violent and ag-
8 gressive behavior later in life than those children not
9 so exposed.

10 (5) There is empirical evidence that children ex-
11 posed to violent video programming have a greater
12 tendency to assume that acts of violence are accept-
13 able behavior and therefore to imitate such behavior.

14 (6) There is empirical evidence that children ex-
15 posed to violent video programming have an in-
16 creased fear of becoming a victim of violence, result-
17 ing in increased self-protective behaviors and in-
18 creased mistrust of others.

19 (7) There is a compelling governmental interest
20 in limiting the negative influences of violent video
21 programming on children.

22 (8) There is a compelling governmental interest
23 in channeling programming with violent content to
24 periods of the day when children are not likely to

1 comprise a substantial portion of the television audi-
2 ence.

3 (9) A significant amount of violent program-
4 ming that is readily accessible to minors remains
5 unrated specifically for violence and therefore cannot
6 be blocked solely on the basis of its violent content.

7 (10) Age-based ratings that do not include con-
8 tent rating for violence do not allow parents to block
9 programming based solely on violent content thereby
10 rendering ineffective any technology-based blocking
11 mechanism designed to limit violent video program-
12 ming.

13 (11) The most recent study of the television
14 ratings system by the Kaiser Family Foundation
15 concludes that 79 percent of violent programming is
16 not specifically rated for violence.

17 (12) Technology-based solutions, such as the V-
18 chip, may be helpful in protecting some children, but
19 cannot achieve the compelling governmental interest
20 in protecting all children from violent programming
21 when parents are only able to block programming
22 that has, in fact, been rated for violence.

23 (13) Restricting the hours when violent pro-
24 gramming can be shown protects the interests of
25 children whose parents are unavailable, unable to su-

1 pervise their children’s viewing behavior, do not have
2 the benefit of technology-based solutions, are unable
3 to afford the costs of technology-based solutions, or
4 are unable to determine the content of those shows
5 that are only subject to age-based ratings.

6 (14) After further study, pursuant to a rule-
7 making, the Federal Communications Commission
8 may conclude that content-based ratings and block-
9 ing technology do not effectively protect children
10 from the harm of violent video programming.

11 (15) If the Federal Communications Commis-
12 sion reaches the conclusion described in paragraph
13 (14), the channeling of violent video programming
14 will be the least restrictive means of limiting the ex-
15 posure of children to the harmful influences of vio-
16 lent video programming.

17 **SEC. 1086. ASSESSMENT OF EFFECTIVENESS OF CURRENT**
18 **RATING SYSTEM FOR VIOLENCE AND EFFEC-**
19 **TIVENESS OF V-CHIP IN BLOCKING VIOLENT**
20 **PROGRAMMING.**

21 (a) REPORT.—The Federal Communications Com-
22 mission shall—

23 (1) assess the effectiveness of measures to re-
24 quire television broadcasters and multichannel video
25 programming distributors (as defined in section

1 602(13) of the Communications Act of 1934 (47
2 U.S.C. 522(13)) to rate and encode programming
3 that could be blocked by parents using the V-chip
4 undertaken under section 715 of the Communica-
5 tions Act of 1934 (47 U.S.C. 715) and under sub-
6 sections (w) and (x) of section 303 of that Act (47
7 U.S.C. 303(w) and (x)) in accomplishing the pur-
8 poses for which they were enacted; and

9 (2) report its findings to the Committee on
10 Commerce, Science, and Transportation of the
11 United States Senate and the Committee on Energy
12 and Commerce of the United States House of Rep-
13 resentatives, within 12 months after the date of en-
14 actment of this Act, and annually thereafter.

15 (b) ACTION.—If the Commission finds at any time,
16 as a result of its ongoing assessment under subsection (a),
17 that the measures referred to in subsection (a)(1) are in-
18 sufficiently effective, then the Commission shall complete
19 a rulemaking within 270 days after the date on which the
20 Commission makes that finding to prohibit the distribu-
21 tion of violent video programming during the hours when
22 children are reasonably likely to comprise a substantial
23 portion of the audience.

24 (c) DEFINITIONS.—Any term used in this section
25 that is defined in section 715 of the Communications Act

1 of 1934 (47 U.S.C. 715), or in regulations under that sec-
 2 tion, has the same meaning as when used in that section
 3 or in those regulations.

4 **SEC. 1087. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO**
 5 **PROGRAMMING THAT IS NOT SPECIFICALLY**
 6 **RATED FOR VIOLENCE AND THEREFORE IS**
 7 **NOT BLOCKABLE.**

8 Title VII of the Communications Act of 1934 (47
 9 U.S.C. 701 et seq.) is amended by adding at the end the
 10 following:

11 **“SEC. 715. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO**
 12 **PROGRAMMING NOT SPECIFICALLY**
 13 **BLOCKABLE BY ELECTRONIC MEANS.**

14 “(a) UNLAWFUL DISTRIBUTION.—It shall be unlaw-
 15 ful for any person to distribute to the public any violent
 16 video programming not blockable by electronic means spe-
 17 cifically on the basis of its violent content during hours
 18 when children are reasonably likely to comprise a substan-
 19 tial portion of the audience.

20 “(b) RULEMAKING PROCEEDING.—The Commission
 21 shall conduct a rulemaking proceeding to implement the
 22 provisions of this section and shall promulgate final regu-
 23 lations pursuant to that proceeding not later than 9
 24 months after the date of enactment of the Children’s Pro-

1 tection from Violent Programming Act. As part of that
2 proceeding, the Commission—

3 “(1) may exempt from the prohibition under
4 subsection (a) programming (including news pro-
5 grams and sporting events) whose distribution does
6 not conflict with the objective of protecting children
7 from the negative influences of violent video pro-
8 gramming, as that objective is reflected in the find-
9 ings in section 551(a) of the Telecommunications
10 Act of 1996;

11 “(2) shall exempt premium and pay-per-view
12 cable programming and premium and pay-per-view
13 direct-to-home satellite programming; and

14 “(3) shall define the term ‘hours when children
15 are reasonably likely to comprise a substantial por-
16 tion of the audience’ and the term ‘violent video pro-
17 gramming’.

18 “(c) ENFORCEMENT.—

19 “(1) FORFEITURE PENALTY.—The forfeiture
20 penalties established by section 503(b) for violations
21 of section 1464 of title 18, United States Code, shall
22 apply to a violation of this section, or any regulation
23 promulgated under it in the same manner as if a
24 violation of this section, or such a regulation, were

1 a violation of law subject to a forfeiture penalty
2 under that section.

3 “(2) LICENSE REVOCATION.—If a person re-
4 peatedly violates this section or any regulation pro-
5 mulgated under this section, the Commission shall,
6 after notice and opportunity for hearing, revoke any
7 license issued to that person under this Act.

8 “(3) LICENSE RENEWALS.—The Commission
9 shall consider, among the elements in its review of
10 an application for renewal of a license under this
11 Act, whether the licensee has complied with this sec-
12 tion and the regulations promulgated under this sec-
13 tion.

14 “(d) DEFINITIONS.—For purposes of this section—

15 “(1) BLOCKABLE BY ELECTRONIC MEANS.—
16 The term ‘blockable by electronic means’ means
17 blockable by the feature described in section 303(x).

18 “(2) DISTRIBUTE.—The term ‘distribute’
19 means to send, transmit, retransmit, telecast, broad-
20 cast, or cablecast, including by wire, microwave, or
21 satellite, but it does not include the transmission, re-
22 transmission, or receipt of any voice, data, graphics,
23 or video telecommunications accessed through an
24 interactive computer service as defined in section
25 230(f)(2) of the Communications Act of 1934 (47

1 U.S.C. 230(f)(2)), which is not originated or trans-
2 mitted in the ordinary course of business by a tele-
3 vision broadcast station or multichannel video pro-
4 gramming distributor as defined in section 602(13)
5 of that Act (47 U.S.C. 522(13)).

6 “(3) VIOLENT VIDEO PROGRAMMING.—The
7 term ‘violent video programming’ as defined by the
8 Commission may include matter that is excessive or
9 gratuitous violence within the meaning of the 1992
10 Broadcast Standards for the Depiction of Violence
11 in Television Programs, December 1992.”.

12 **SEC. 1088. SEPARABILITY.**

13 If any provision of this title, or any provision of an
14 amendment made by this title, or the application thereof
15 to particular persons or circumstances, is found to be un-
16 constitutional, the remainder of this title or that amend-
17 ment, or the application thereof to other persons or cir-
18 cumstances shall not be affected.

19 **SEC. 1089. EFFECTIVE DATE.**

20 The prohibition contained in section 715 of the Com-
21 munications Act of 1934 (as added by section 204 of this
22 title) and the regulations promulgated thereunder shall
23 take effect 1 year after the regulations are adopted by the
24 Commission.

1 **SEC. 1090. PILOT PROGRAM ON CRYPTOLOGIC SERVICE**
2 **TRAINING.**

3 (a) PROGRAM AUTHORIZED.—The Director of the
4 National Security Agency may carry out a pilot program
5 on cryptologic service training for the intelligence commu-
6 nity.

7 (b) OBJECTIVE OF PROGRAM.—The objective of the
8 pilot program is to increase the number of qualified entry-
9 level language analysts and intelligence analysts available
10 to the National Security Agency and the other elements
11 of the intelligence community through the directed prepa-
12 ration and recruitment of qualified entry-level language
13 analysts and intelligence analysts who commit to a period
14 of service or a career in the intelligence community.

15 (c) PROGRAM SCOPE.—The pilot program shall be
16 national in scope.

17 (d) PROGRAM PARTICIPANTS.—(1) Subject to the
18 provisions of this subsection, the Director shall select the
19 participants in the pilot program from among individuals
20 qualified to participate in the pilot program utilizing such
21 procedures as the Director considers appropriate for pur-
22 poses of the pilot program.

23 (2) Each individual who receives financial assistance
24 under the pilot program shall perform one year of obli-
25 gated service with the National Security Agency, or an-
26 other element of the intelligence community approved by

1 the Director, for each academic year for which such indi-
2 vidual receives such financial assistance upon such individ-
3 ual's completion of post-secondary education.

4 (3) Each individual selected to participate in the pilot
5 program shall be qualified for a security clearance appro-
6 priate for the individual under the pilot program.

7 (4) The total number of participants in the pilot pro-
8 gram at any one time may not exceed 400 individuals.

9 (e) PROGRAM MANAGEMENT.—In carrying out the
10 pilot program, the Director shall—

11 (1) identify individuals interested in working in
12 the intelligence community, and committed to taking
13 college-level courses that will better prepare them for
14 a career in the intelligence community as a language
15 analysts or intelligence analyst;

16 (2) provide each individual selected for partici-
17 pation in the pilot program—

18 (A) financial assistance for the pursuit of
19 courses at institutions of higher education se-
20 lected by the Director in fields of study that
21 will qualify such individual for employment by
22 an element of the intelligence community as a
23 language analyst or intelligence analyst; and

24 (B) educational counseling on the selection
25 of courses to be so pursued; and

1 (3) provide each individual so selected informa-
2 tion on the opportunities available for employment in
3 the intelligence community.

4 (f) DURATION OF PROGRAM.—(1) The Director shall
5 terminate the pilot program not later than six years after
6 the date of the enactment of this Act.

7 (2) The termination of the pilot program under para-
8 graph (1) shall not prevent the Director from continuing
9 to provide assistance, counseling, and information under
10 subsection (e) to individuals who are participating in the
11 pilot program on the date of termination of the pilot pro-
12 gram throughout the academic year in progress as of that
13 date.

14 **SEC. 1091. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

15 (a) IN GENERAL.—Section 801(c) of the National
16 Energy Conservation Policy Act (42 U.S.C. 8287(c)) is
17 amended by striking “2003” and inserting “2005”.

18 (b) PAYMENT OF COSTS.—Section 802 of the Na-
19 tional Energy Conservation Policy Act (42 U.S.C. 8287a)
20 is amended by inserting “, water, or wastewater treat-
21 ment” after “payment of energy”.

22 (c) ENERGY SAVINGS.—Section 804(2) of the Na-
23 tional Energy Conservation Policy Act (42 U.S.C.
24 8287c(2)) is amended to read as follows:

1 “(2) The term ‘energy savings’ means a reduc-
2 tion in the cost of energy, water, or wastewater
3 treatment, from a base cost established through a
4 methodology set forth in the contract, used in an ex-
5 isting federally owned building or buildings or other
6 federally owned facilities as a result of—

7 “(A) the lease or purchase of operating
8 equipment, improvements, altered operation and
9 maintenance, or technical services;

10 “(B) the increased efficient use of existing
11 energy sources by cogeneration or heat recov-
12 ery, excluding any cogeneration process for
13 other than a federally owned building or build-
14 ings or other federally owned facilities; or

15 “(C) the increased efficient use of existing
16 water sources in either interior or exterior ap-
17 plications.”.

18 (d) ENERGY SAVINGS CONTRACT.—Section 804(3) of
19 the National Energy Conservation Policy Act (42 U.S.C.
20 8287c(3)) is amended to read as follows:

21 “(3) The terms ‘energy savings contract’ and
22 ‘energy savings performance contract’ mean a con-
23 tract that provides for the performance of services
24 for the design, acquisition, installation, testing, and,
25 where appropriate, operation, maintenance, and re-

1 pair, of an identified energy or water conservation
2 measure or series of measures at 1 or more loca-
3 tions. Such contracts shall, with respect to an agen-
4 cy facility that is a public building (as such term is
5 defined in section 3301 of title 40, United States
6 Code), be in compliance with the prospectus require-
7 ments and procedures of section 3307 of title 40,
8 United States Code.”.

9 (e) ENERGY OR WATER CONSERVATION MEASURE.—
10 Section 804(4) of the National Energy Conservation Pol-
11 icy Act (42 U.S.C. 8287c(4)) is amended to read as fol-
12 lows:

13 “(4) The term ‘energy or water conservation
14 measure’ means—

15 “(A) an energy conservation measure, as
16 defined in section 551; or

17 “(B) a water conservation measure that
18 improves the efficiency of water use, is life-cycle
19 cost-effective, and involves water conservation,
20 water recycling or reuse, more efficient treat-
21 ment of wastewater or stormwater, improve-
22 ments in operation or maintenance efficiencies,
23 retrofit activities, or other related activities, not
24 at a Federal hydroelectric facility.”.

1 (f) REVIEW.—Not later than 180 days after the date
2 of the enactment of this Act, the Secretary of Energy shall
3 complete a review of the Energy Savings Performance
4 Contract program to identify statutory, regulatory, and
5 administrative obstacles that prevent Federal agencies
6 from fully utilizing the program. In addition, this review
7 shall identify all areas for increasing program flexibility
8 and effectiveness, including audit and measurement
9 verification requirements, accounting for energy use in de-
10 termining savings, contracting requirements, including the
11 identification of additional qualified contractors, and en-
12 ergy efficiency services covered. The Secretary shall report
13 these findings to Congress and shall implement identified
14 administrative and regulatory changes to increase pro-
15 gram flexibility and effectiveness to the extent that such
16 changes are consistent with statutory authority.

17 (g) EXTENSION OF AUTHORITY.—Any energy sav-
18 ings performance contract entered into under section 801
19 of the National Energy Conservation Policy Act (42
20 U.S.C. 8287) after October 1, 2003, and before the date
21 of enactment of this Act, shall be deemed to have been
22 entered into pursuant to such section 801 as amended by
23 subsection (a) of this section.

1 **SEC. 1092. CLARIFICATION OF FISCAL YEAR 2004 FUNDING**
2 **LEVEL FOR A NATIONAL INSTITUTE OF**
3 **STANDARDS AND TECHNOLOGY ACCOUNT.**

4 For the purposes of applying sections 204 and 605
5 of the Departments of Commerce, Justice, and State, the
6 Judiciary, and Related Agencies Appropriations Act, 2004
7 (division B of Public Law 108–199) to matters in title
8 II of such Act under the heading “NATIONAL INSTITUTE
9 OF STANDARDS AND TECHNOLOGY” (118 Stat.69), in the
10 account under the heading “INDUSTRIAL TECHNOLOGY
11 SERVICES”, the Secretary of Commerce shall make all de-
12 terminations based on the Industrial Technology Services
13 funding level of \$218,782,000 for reprogramming and
14 transferring of funds for the Manufacturing Extension
15 Partnership program and shall submit such a reprogram-
16 ming or transfer, as the case may be, to the appropriate
17 committees within 30 days after the date of the enactment
18 of this Act.

19 **SEC. 1093. REPORT ON OFFSET REQUIREMENTS UNDER**
20 **CERTAIN CONTRACTS.**

21 Section 8138(b) of the Department of Defense Ap-
22 propriations Act, 2004 (Public Law 108–87; 117 Stat.
23 1106; 10 U.S.C. 2532 note) is amended by adding at the
24 end the following new paragraph:

25 “(4) The extent to which any foreign country
26 imposes, whether by law or practice, offsets in excess

1 of 100 percent on United States suppliers of goods
2 or services, and the impact of such offsets with re-
3 spect to employment in the United States, sales rev-
4 enue relative to the value of such offsets, technology
5 transfer of goods that are critical to the national se-
6 curity of the United States, and global market share
7 of United States companies.”.

8 **TITLE XI—DEPARTMENT OF DE-**
9 **FENSE CIVILIAN PERSONNEL**
10 **POLICY**

11 **SEC. 1101. SCIENCE, MATHEMATICS, AND RESEARCH FOR**
12 **TRANSFORMATION (SMART) DEFENSE SCHOL-**
13 **ARSHIP PILOT PROGRAM.**

14 (a) **REQUIREMENT FOR PROGRAM.**—(1) The Sec-
15 retary of Defense shall carry out a pilot program to pro-
16 vide financial assistance for education in science, mathe-
17 matics, engineering, and technology skills and disciplines
18 that, as determined by the Secretary, are critical to the
19 national security functions of the Department of Defense
20 and are needed in the Department of Defense workforce.

21 (2) The pilot program under this section shall be car-
22 ried out for three years beginning on October 1, 2004.

23 (b) **SCHOLARSHIPS.**—(1) Under the pilot program,
24 the Secretary of Defense may award a scholarship in ac-
25 cordance with this section to a person who—

1 (A) is a citizen of the United States;

2 (B) is pursuing an undergraduate or advanced
3 degree in a critical skill or discipline described in
4 subsection (a) at an institution of higher education;
5 and

6 (C) enters into a service agreement with the
7 Secretary of Defense as described in subsection (c).

8 (2) The amount of the financial assistance provided
9 under a scholarship awarded to a person under this sub-
10 section shall be the amount determined by the Secretary
11 of Defense as being necessary to pay all educational ex-
12 penses incurred by that person, including tuition, fees,
13 cost of books, laboratory expenses, and expenses of room
14 and board. The expenses paid, however, shall be limited
15 to those educational expenses normally incurred by stu-
16 dents at the institution of higher education involved.

17 (c) SERVICE AGREEMENT FOR RECIPIENTS OF AS-
18 SISTANCE.—(1) To receive financial assistance under this
19 section—

20 (A) in the case of an employee of the Depart-
21 ment of Defense, the employee shall enter into a
22 written agreement to continue in the employment of
23 the department for the period of obligated service
24 determined under paragraph (2); and

1 (B) in the case of a person not an employee of
2 the Department of Defense, the person shall enter
3 into a written agreement to accept and continue em-
4 ployment in the Department of Defense for the pe-
5 riod of obligated service determined under paragraph
6 (2).

7 (2) For the purposes of this subsection, the period
8 of obligated service for a recipient of a scholarship under
9 this section shall be the period determined by the Sec-
10 retary of Defense as being appropriate to obtain adequate
11 service in exchange for the financial assistance provided
12 under the scholarship. In no event may the period of serv-
13 ice required of a recipient be less than the total period
14 of pursuit of a degree that is covered by the scholarship.
15 The period of obligated service is in addition to any other
16 period for which the recipient is obligated to serve in the
17 civil service of the United States.

18 (3) An agreement entered into under this subsection
19 by a person pursuing an academic degree shall include any
20 terms and conditions that the Secretary of Defense deter-
21 mines necessary to protect the interests of the United
22 States or otherwise appropriate for carrying out this sec-
23 tion.

24 (d) REFUND FOR PERIOD OF UNSERVED OBLIGATED
25 SERVICE.—(1) A person who voluntarily terminates serv-

1 ice before the end of the period of obligated service re-
2 quired under an agreement entered into under subsection
3 (c) shall refund to the United States an amount deter-
4 mined by the Secretary of Defense as being appropriate
5 to obtain adequate service in exchange for financial assist-
6 ance.

7 (2) An obligation to reimburse the United States im-
8 posed under paragraph (1) is for all purposes a debt owed
9 to the United States.

10 (3) The Secretary of Defense may waive, in whole or
11 in part, a refund required under paragraph (1) if the Sec-
12 retary determines that recovery would be against equity
13 and good conscience or would be contrary to the best inter-
14 ests of the United States.

15 (4) A discharge in bankruptcy under title 11, United
16 States Code, that is entered less than five years after the
17 termination of an agreement under this section does not
18 discharge the person signing such agreement from a debt
19 arising under such agreement or under this subsection.

20 (e) RELATIONSHIP TO OTHER PROGRAMS.—The pilot
21 program under this section is in addition to the authorities
22 provided in chapter 111 of title 10, United States Code.
23 The Secretary of Defense shall coordinate the provision
24 of financial assistance under the authority of this section
25 with the provision of financial assistance under the au-

1 thorties provided in such chapter in order to maximize
2 the benefits derived by the Department of Defense from
3 the exercise of all such authorities.

4 (f) RECOMMENDATION ON PILOT PROGRAM.—Not
5 later than February 1, 2007, the Secretary of Defense
6 shall submit to the Committees on Armed Services of the
7 Senate and the House of Representatives, the Committee
8 on Governmental Affairs of the Senate, and the Com-
9 mittee on Government Reform of the House of Represent-
10 atives a plan for expanding and improving the national
11 defense science and engineering workforce educational as-
12 sistance pilot program carried out under this section as
13 appropriate to improve recruitment and retention to meet
14 the requirements of the Department of Defense for its
15 science and engineering workforce on a short-term basis
16 and on a long-term basis.

17 (g) CRITICAL HIRING NEED.—Section 3304(a)(3) of
18 title 5, United States Code, is amended by striking sub-
19 paragraph (B) and inserting the following:

20 “(B)(i) the Office of Personnel Manage-
21 ment has determined that there exists a severe
22 shortage of candidates or there is a critical hir-
23 ing need; or

24 “(ii) the candidate is a participant in the
25 Science, Mathematics, and Research for Trans-

1 formation (SMART) Defense Scholarship Pilot
2 Program under section 1101 of the National
3 Defense Authorization Act for Fiscal Year
4 2005.”.

5 (h) INSTITUTION OF HIGHER EDUCATION DE-
6 FINED.—In this section, the term “institution of higher
7 education” has the meaning given such term in section
8 101 of the Higher Education Act of 1965 (21 U.S.C.
9 1001).

10 **SEC. 1102. FOREIGN LANGUAGE PROFICIENCY PAY.**

11 (a) ELIGIBILITY FOR SERVICE NOT RELATED TO
12 CONTINGENCY OPERATIONS.—Section 1596a(a)(2) of
13 title 10, United States Code, is amended by striking “dur-
14 ing a contingency operation supported by the armed
15 forces”.

16 (b) EFFECTIVE DATE AND APPLICABILITY.—The
17 amendment by this section shall take effect on October
18 1, 2004, and shall apply with respect to months beginning
19 on or after such date.

20 **SEC. 1103. PAY AND PERFORMANCE APPRAISAL PARITY**
21 **FOR CIVILIAN INTELLIGENCE PERSONNEL.**

22 (a) PAY RATES.—Section 1602(a) of title 10, United
23 States Code, is amended by striking “in relation to the
24 rates of pay provided in subpart D of part III of title 5
25 for positions subject to that subpart which have cor-

1 responding levels of duties and responsibilities” and in-
2 serting “in relation to the rates of pay provided for com-
3 parable positions in the Department of Defense, including
4 Senior Executive Service positions (as defined in section
5 3132 of title 5) or other senior level positions”.

6 (b) PERFORMANCE APPRAISAL SYSTEM.—Section
7 1606 of such title is amended by adding at the end the
8 following new subsection:

9 “(d) PERFORMANCE APPRAISALS.—(1) The Defense
10 Intelligence Senior Executive Service shall be subject to
11 a performance appraisal system which, as designed and
12 applied, is certified by the Secretary of Defense under sec-
13 tion 5307 of title 5 as making meaningful distinctions
14 based on relative performance.

15 “(2) The performance appraisal system applicable to
16 the Defense Intelligence Senior Executive Service under
17 paragraph (1) may be the same performance appraisal
18 system that is established and implemented within the De-
19 partment of Defense for members of the Senior Executive
20 Service.”.

21 **SEC. 1104. ACCUMULATION OF ANNUAL LEAVE BY INTEL-**
22 **LIGENCE SENIOR LEVEL EMPLOYEES.**

23 Section 6304(f)(1) of title 5, United States Code, is
24 amended—

1 (1) in the matter preceding subparagraph (A),
2 by striking “in a position”;

3 (2) in subparagraphs (A), (B), (C), (D), and
4 (E), by inserting “a position in” before “the”;

5 (3) by striking “or” at the end of subparagraph
6 (D);

7 (4) by striking the period at the end of sub-
8 paragraph (E) and inserting “; or”; and

9 (5) by adding at the end the following new sub-
10 paragraph:

11 “(F) a position designated as an Intelligence
12 Senior Level position under section 1607(a) of title
13 10.”.

14 **SEC. 1105. PAY PARITY FOR SENIOR EXECUTIVES IN DE-**
15 **FENSE NONAPPROPRIATED FUND INSTRU-**
16 **MENTALITIES.**

17 (a) **AUTHORITY.**—Chapter 81 of title 10, United
18 States Code, is amended by inserting after section 1587
19 the following new section:

20 **“§ 1587a. Employees of nonappropriated fund instru-**
21 **mentalities: senior executive pay levels**

22 “(a) **AUTHORITY.**—To achieve the objective stated in
23 subsection (b), the Secretary of Defense may regulate the
24 amount of total compensation that is provided for senior
25 executives of nonappropriated fund instrumentalities who,

1 for the fixing of pay by administrative action, are under
2 the jurisdiction of the Secretary of Defense or the Sec-
3 retary of a military department.

4 “(b) PAY PARITY.—The objective of an action taken
5 with respect to the compensation of a senior executive
6 under subsection (a) is to provide for parity between the
7 total compensation provided for such senior executive and
8 total compensation that is provided for Department of De-
9 fense employees in Senior Executive Service positions or
10 other senior executive positions.

11 “(c) STANDARDS OF COMPARABILITY.—Subject to
12 subsection (d), the Secretary of Defense shall prescribe the
13 standards of comparison that are to apply in the making
14 of the determinations necessary to achieve the objective
15 stated in subsection (b).

16 “(d) ESTABLISHMENT OF PAY RATES.—The Sec-
17 retary of Defense shall apply subsections (a) and (b) of
18 section 5382 of title 5 in the regulation of compensation
19 under this section.

20 “(e) RELATIONSHIP TO PAY LIMITATION.—The Sec-
21 retary of Defense may exercise the authority provided in
22 subsection (a) without regard to section 5373 of title 5.

23 “(f) DEFINITIONS.—In this section:

24 “(1) The term ‘compensation’ includes rate of
25 basic pay.

1 “(2) The term ‘Senior Executive Service posi-
2 tion’ has the meaning given such term in section
3 3132 of title 5.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of such chapter is amended by inserting
6 after the item relating to section 1587 the following new
7 item:

 “1587a. Employees of nonappropriated fund instrumentalities: senior executive
 pay levels.”.

8 **SEC. 1106. HEALTH BENEFITS PROGRAM FOR EMPLOYEES**
9 **OF NONAPPROPRIATED FUND INSTRUMEN-**
10 **TALITIES.**

11 (a) ESTABLISHMENT.—(1) Chapter 81 of title 10,
12 United States Code, as amended by section 1105(a), is
13 further amended by inserting after section 1587a the fol-
14 lowing new section:

15 **“§ 1587b. Employees of nonappropriated fund instru-**
16 **mentalities: health benefits program**

17 “(a) PROGRAM REQUIRED.—The Secretary of De-
18 fense shall provide a uniform health benefits program for
19 employees of the Department of Defense assigned to a
20 nonappropriated fund instrumentality of the United
21 States.

22 “(b) EXEMPTION FROM STATE AND LOCAL LAWS,
23 TAXES, AND OTHER REQUIREMENTS.—The exemption in
24 section 8909(f) of title 5 shall apply to the program under

1 subsection (a) and to a carrier, underwriting contractor,
 2 and plan administration contractor under such program
 3 in the same manner and to the same extent as such ex-
 4 emption applies under section 8909(f) of such title to an
 5 approved health benefits plan under chapter 89 of such
 6 title and a carrier, underwriting subcontractor, and plan
 7 administration subcontractor, respectively, of such a
 8 plan.”.

9 (2) The table of sections at the beginning of such
 10 chapter, as amended by section 1105(b), is further amend-
 11 ed by inserting after the item relating to section 1587a
 12 the following new item:

“1587b. Employees of nonappropriated fund instrumentalities: health benefits
 program.”.

13 (b) **REPEAL OF SUPERSEDED LAW.**—Section 349 of
 14 the National Defense Authorization Act for Fiscal Year
 15 1995 (Public Law 103–337; 108 Stat. 2727; 10 U.S.C.
 16 1587 note) is repealed.

17 **SEC. 1107. BID PROTESTS BY FEDERAL EMPLOYEES IN AC-**
 18 **TIONS UNDER OFFICE OF MANAGEMENT AND**
 19 **BUDGET CIRCULAR A-76.**

20 (a) **ELIGIBILITY TO PROTEST.**—(1) Section 3551(2)
 21 of title 31, United States Code, is amended to read as
 22 follows:

23 “(2) The term ‘interested party’—

1 “(A) with respect to a contract or a solici-
2 tation or other request for offers described in
3 paragraph (1), means an actual or prospective
4 bidder or offeror whose direct economic interest
5 would be affected by the award of the contract
6 or by failure to award the contract; and

7 “(B) with respect to a public-private com-
8 petition conducted under Office of Management
9 and Budget Circular A-76 regarding perform-
10 ance of an activity or function of a Federal
11 agency, includes—

12 “(i) any official who submitted the
13 agency tender in such competition; and

14 “(ii) any one person who, for the pur-
15 pose of representing them in a protest
16 under this subchapter that relates to such
17 competition, has been designated as their
18 agent by a majority of the employees of
19 such Federal agency who are engaged in
20 the performance of such activity or func-
21 tion.”.

22 (2)(A) Subchapter V of chapter 35 of such title is
23 amended by adding at the end the following new section:

1 **“§ 3557. Expedited action in protests for public-pri-**
 2 **vate competitions**

3 “For protests in cases of public-private competitions
 4 conducted under Office of Management and Budget Cir-
 5 cular A–76 regarding performance of an activity or func-
 6 tion of Federal agencies, the Comptroller General shall ad-
 7 minister the provisions of this subchapter in a manner
 8 best suited for expediting final resolution of such protests
 9 and final action in such competitions.”.

10 (B) The chapter analysis at the beginning of such
 11 chapter is amended by inserting after the item relating
 12 to section 3556 the following new item:

“3557. Expedited action in protests for public-private competitions.”.

13 (b) RIGHT TO INTERVENE IN CIVIL ACTION.—Sec-
 14 tion 1491(b) of title 28, United States Code, is amended
 15 by adding at the end the following new paragraph:

16 “(5) If a private sector interested party commences
 17 an action described in paragraph (1) in the case of a pub-
 18 lic-private competition conducted under Office of Manage-
 19 ment and Budget Circular A–76 regarding performance
 20 of an activity or function of a Federal agency, then an
 21 official or person described in section 3551(2)(B) of title
 22 31 shall be entitled to intervene in that action.”.

23 (c) APPLICABILITY.—Subparagraph (B) of section
 24 3551(2) of title 31, United States Code (as added by sub-
 25 section (a)), and paragraph (5) of section 1491(b) of title

1 28, United States Code (as added by subsection (b)), shall
2 apply to—

3 (1) protests and civil actions that challenge
4 final selections of sources of performance of an ac-
5 tivity or function of a Federal agency that are made
6 pursuant to studies initiated under Office of Man-
7 agement and Budget Circular A-76 on or after Jan-
8 uary 1, 2004; and

9 (2) any other protests and civil actions that re-
10 late to public-private competitions initiated under
11 Office of Management and Budget Circular A-76 on
12 or after the date of the enactment of this Act.

13 **SEC. 1108. REPORT ON HOW TO RECRUIT AND RETAIN INDI-**
14 **VIDUALS WITH FOREIGN LANGUAGE SKILLS.**

15 (a) FINDINGS.—Congress makes the following find-
16 ings:

17 (1) The Federal Government has a requirement
18 to ensure that the employees of its departments and
19 agencies with national security responsibilities are
20 prepared to meet the challenges of this evolving
21 international environment.

22 (2) According to a 2002 General Accounting
23 Office report, Federal agencies have shortages in
24 translators and interpreters and an overall shortfall
25 in the language proficiency levels needed to carry

1 out their missions which has adversely affected agen-
2 cy operations and hindered United States military,
3 law enforcement, intelligence, counterterrorism, and
4 diplomatic efforts.

5 (3) Foreign language skills and area expertise
6 are integral to, or directly support, every foreign in-
7 telligence discipline and are essential factors in na-
8 tional security readiness, information superiority,
9 and coalition peacekeeping or warfighting missions.

10 (4) Communicating in languages other than
11 English and understanding and accepting cultural
12 and societal differences are vital to the success of
13 peacetime and wartime military and intelligence ac-
14 tivities.

15 (5) Proficiency levels required for foreign lan-
16 guage support to national security functions have
17 been raised, and what was once considered pro-
18 ficiency is no longer the case. The ability to com-
19 prehend and articulate technical and complex infor-
20 mation in foreign languages has become critical.

21 (6) According to the Joint Intelligence Com-
22 mittee Inquiry into the 9/11 Terrorist Attacks, the
23 Intelligence Community had insufficient linguists
24 prior to September 11, 2001, to handle the challenge
25 it faced in translating the volumes of foreign lan-

1 guage counterterrorism intelligence it collected.
2 Agencies within the Intelligence Community experi-
3 enced backlogs in material awaiting translation, a
4 shortage of language specialists and language-quali-
5 fied field officers, and a readiness level of only 30
6 percent in the most critical terrorism-related lan-
7 guages that are used by terrorists.

8 (7) Because of this shortage, the Federal Gov-
9 ernment has had to enter into private contracts to
10 procure linguist and translator services, including in
11 some positions that would be more appropriately
12 filled by permanent Federal employees or members
13 of the United States Armed Forces.

14 (b) REPORT.—In its fiscal year 2006 budget request,
15 the Secretary of Defense shall submit to the Committees
16 on Armed Services of the Senate and the House of Rep-
17 resentatives and the Select Committee on Intelligence of
18 the Senate and the Permanent Select Committee on Intel-
19 ligence of the House of Representatives, a plan for ex-
20 panding and improving the national security foreign lan-
21 guage workforce of the Department of Defense as appro-
22 priate to improve recruitment and retention to meet the
23 requirements of the Department for its foreign language
24 workforce on a short-term basis and on a long-term basis.

1 **SEC. 1109. PLAN ON IMPLEMENTATION AND UTILIZATION**
2 **OF FLEXIBLE PERSONNEL MANAGEMENT AU-**
3 **THORITIES IN DEPARTMENT OF DEFENSE**
4 **LABORATORIES.**

5 (a) **PLAN REQUIRED.**—The Under Secretary of De-
6 fense for Acquisition, Technology, and Logistics and the
7 Under Secretary of Defense for Personnel and Readiness
8 shall jointly develop a plan for the effective utilization of
9 the personnel management authorities referred to in sub-
10 section (b) in order to increase the mission responsiveness,
11 efficiency, and effectiveness of Department of Defense lab-
12 oratories.

13 (b) **COVERED AUTHORITIES.**—The personnel man-
14 agement authorities referred to in this subsection are the
15 personnel management authorities granted to the Sec-
16 retary of Defense by the provisions of law as follows:

17 (1) Section 342(b) of the National Defense Au-
18 thorization Act for Fiscal Year 1995 (Public Law
19 103–337; 108 Stat. 2721), as amended by section
20 1114 of the Floyd D. Spence National Defense Au-
21 thorization Act for Fiscal Year 2001 (as enacted
22 into law by Public Law 106–398 (114 Stat. 1654A–
23 315)).

24 (2) Section 1101 of the Strom Thurmond Na-
25 tional Defense Authorization Act for Fiscal Year
26 1999 (Public Law 105–261; 5 U.S.C. 3104 note).

1 (3) Such other provisions of law as the Under
2 Secretaries jointly consider appropriate for purposes
3 of this section.

4 (c) PLAN ELEMENTS.—The plan under subsection
5 (a) shall—

6 (1) include such elements as the Under Secre-
7 taries jointly consider appropriate to provide for the
8 effective utilization of the personnel management au-
9 thorities referred to in subsection (b) as described in
10 subsection (a), including the recommendations of the
11 Under Secretaries for such additional authorities, in-
12 cluding authorities for demonstration programs or
13 projects, as are necessary to achieve the effective
14 utilization of such personnel management authori-
15 ties; and

16 (2) include procedures, including a schedule for
17 review and decisions, on proposals to modify current
18 demonstration programs or projects, or to initiate
19 new demonstration programs or projects, on flexible
20 personnel management at Department laboratories

21 (d) SUBMITTAL TO CONGRESS.—The Under Secre-
22 taries shall jointly submit to Congress the plan under sub-
23 section (a) not later than February 1, 2006.

1 **SEC. 1110. NONREDUCTION IN PAY WHILE FEDERAL EM-**
 2 **EMPLOYEE IS PERFORMING ACTIVE SERVICE IN**
 3 **THE UNIFORMED SERVICES OR NATIONAL**
 4 **GUARD.**

5 (a) **SHORT TITLE.**—This section may be cited as the
 6 “Reservists Pay Security Act of 2004”.

7 (b) **IN GENERAL.**—Subchapter IV of chapter 55 of
 8 title 5, United States Code, is amended by adding at the
 9 end the following:

10 **“§ 5538. Nonreduction in pay while serving in the**
 11 **uniformed services or National Guard**

12 “(a) An employee who is absent from a position of
 13 employment with the Federal Government in order to per-
 14 form active duty in the uniformed services pursuant to a
 15 call or order to active duty under a provision of law re-
 16 ferred to in section 101(a)(13)(B) of title 10 shall be enti-
 17 tled, while serving on active duty, to receive, for each pay
 18 period described in subsection (b), an amount equal to the
 19 amount by which—

20 “(1) the amount of basic pay which would oth-
 21 erwise have been payable to such employee for such
 22 pay period if such employee’s civilian employment
 23 with the Government had not been interrupted by
 24 that service, exceeds (if at all)

25 “(2) the amount of pay and allowances which
 26 (as determined under subsection (d))—

1 “(A) is payable to such employee for that
2 service; and

3 “(B) is allocable to such pay period.

4 “(b)(1) Amounts under this section shall be payable
5 with respect to each pay period (which would otherwise
6 apply if the employee’s civilian employment had not been
7 interrupted)—

8 “(A) during which such employee is entitled to
9 reemployment rights under chapter 43 of title 38
10 with respect to the position from which such em-
11 ployee is absent (as referred to in subsection (a));
12 and

13 “(B) for which such employee does not other-
14 wise receive basic pay (including by taking any an-
15 nual, military, or other paid leave) to which such
16 employee is entitled by virtue of such employee’s ci-
17 vilian employment with the Government.

18 “(2) For purposes of this section, the period during
19 which an employee is entitled to reemployment rights
20 under chapter 43 of title 38—

21 “(A) shall be determined disregarding the provi-
22 sions of section 4312(d) of title 38; and

23 “(B) shall include any period of time specified
24 in section 4312(e) of title 38 within which an em-
25 ployee may report or apply for employment or reem-

1 employment following completion of service on active
2 duty to which called or ordered as described in sub-
3 section (a).

4 “(c) Any amount payable under this section to an em-
5 ployee shall be paid—

6 “(1) by such employee’s employing agency;

7 “(2) from the appropriation or fund which
8 would be used to pay the employee if such employee
9 were in a pay status; and

10 “(3) to the extent practicable, at the same time
11 and in the same manner as would basic pay if such
12 employee’s civilian employment had not been inter-
13 rupted.

14 “(d) The Office of Personnel Management shall, in
15 consultation with Secretary of Defense, prescribe any reg-
16 ulations necessary to carry out the preceding provisions
17 of this section.

18 “(e)(1) The head of each agency referred to in section
19 2302(a)(2)(C)(ii) shall, in consultation with the Office,
20 prescribe procedures to ensure that the rights under this
21 section apply to the employees of such agency.

22 “(2) The Administrator of the Federal Aviation Ad-
23 ministration shall, in consultation with the Office, pre-
24 scribe procedures to ensure that the rights under this sec-
25 tion apply to the employees of that agency.

1 “(f) For purposes of this section—

2 “(1) the terms ‘employee’, ‘Federal Govern-
3 ment’, and ‘uniformed services’ have the same re-
4 spective meanings as given them in section 4303 of
5 title 38;

6 “(2) the term ‘employing agency’, as used with
7 respect to an employee entitled to any payments
8 under this section, means the agency or other entity
9 of the Government (including an agency referred to
10 in section 2302(a)(2)(C)(ii)) with respect to which
11 such employee has reemployment rights under chap-
12 ter 43 of title 38; and

13 “(3) the term ‘basic pay’ includes any amount
14 payable under section 5304.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for chapter 55 of title 5, United States Code, is amended
17 by inserting after the item relating to section 5537 the
18 following:

“5538. Nonreduction in pay while serving in the uniformed services or National
Guard.”.

19 (d) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply with respect to pay periods
22 (as described in section 5538(b) of title 5, United
23 States Code, as amended by this section) beginning
24 on or after the date of enactment of this Act.

1 (2) CONDITIONAL RETROACTIVE APPLICA-
2 TION.—

3 (A) IN GENERAL.—The amendments made
4 by this section shall apply with respect to pay
5 periods (as described in section 5538(b) of title
6 5, United States Code, as amended by this sec-
7 tion) beginning on or after October 11, 2002
8 through the date of enactment of this Act, sub-
9 ject to the availability of appropriations.

10 (B) AUTHORIZATION OF APPROPRIA-
11 TIONS.—There are authorized to be appro-
12 priated \$100,000,000 for purposes of subpara-
13 graph (A).

14 **TITLE XII—COOPERATIVE**
15 **THREAT REDUCTION WITH**
16 **STATES OF THE FORMER SO-**
17 **VIET UNION**

18 **SEC. 1201. SPECIFICATION OF COOPERATIVE THREAT RE-**
19 **DUCTION PROGRAMS AND FUNDS.**

20 (a) SPECIFICATION OF CTR PROGRAMS.—For pur-
21 poses of section 301 and other provisions of this Act, Co-
22 operative Threat Reduction programs are the programs
23 specified in section 1501(b) of the National Defense Au-
24 thorization Act for Fiscal Year 1997 (Public Law 104-
25 201; 110 Stat. 2731; 50 U.S.C. 2362 note).

1 (b) FISCAL YEAR 2005 COOPERATIVE THREAT RE-
2 DUCTION FUNDS DEFINED.—As used in this title, the
3 term “fiscal year 2005 Cooperative Threat Reduction
4 funds” means the funds appropriated pursuant to the au-
5 thorization of appropriations in section 301 for Coopera-
6 tive Threat Reduction programs.

7 (c) AVAILABILITY OF FUNDS.—Funds appropriated
8 pursuant to the authorization of appropriations in section
9 301 for Cooperative Threat Reduction programs shall be
10 available for obligation for three fiscal years.

11 **SEC. 1202. FUNDING ALLOCATIONS.**

12 (a) FUNDING FOR SPECIFIC PURPOSES.—Of the
13 \$409,200,000 authorized to be appropriated to the De-
14 partment of Defense for fiscal year 2005 in section
15 301(19) for Cooperative Threat Reduction programs, the
16 following amounts may be obligated for the purposes spec-
17 ified:

18 (1) For strategic offensive arms elimination in
19 Russia, \$58,522,000.

20 (2) For nuclear weapons storage security in
21 Russia, \$48,672,000.

22 (3) For nuclear weapons transportation security
23 in Russia, \$26,300,000.

1 (4) For weapons of mass destruction prolifera-
2 tion prevention in the states of the former Soviet
3 Union, \$40,030,000.

4 (5) For chemical weapons destruction in Rus-
5 sia, \$158,400,000.

6 (6) For biological weapons proliferation preven-
7 tion in the former Soviet Union, \$54,959,000.

8 (7) For defense and military contacts,
9 \$8,000,000.

10 (8) For activities designated as Other Assess-
11 ments/Administrative Support, \$14,317,000.

12 (b) REPORT ON OBLIGATION OR EXPENDITURE OF
13 FUNDS FOR OTHER PURPOSES.—No fiscal year 2005 Co-
14 operative Threat Reduction funds may be obligated or ex-
15 pended for a purpose other than a purpose listed in para-
16 graphs (1) through (8) of subsection (a) until 30 days
17 after the date that the Secretary of Defense submits to
18 Congress a report on the purpose for which the funds will
19 be obligated or expended and the amount of funds to be
20 obligated or expended. Nothing in the preceding sentence
21 shall be construed as authorizing the obligation or expend-
22 iture of fiscal year 2005 Cooperative Threat Reduction
23 funds for a purpose for which the obligation or expendi-
24 ture of such funds is specifically prohibited under this title
25 or any other provision of law.

1 (c) LIMITED AUTHORITY TO VARY INDIVIDUAL
2 AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any
3 case in which the Secretary of Defense determines that
4 it is necessary to do so in the national interest, the Sec-
5 retary may obligate amounts appropriated for fiscal year
6 2005 for a purpose listed in any of the paragraphs in sub-
7 section (a) in excess of the specific amount authorized for
8 that purpose.

9 (2) An obligation of funds for a purpose stated in
10 any of the paragraphs in subsection (a) in excess of the
11 specific amount authorized for such purpose may be made
12 using the authority provided in paragraph (1) only after—

13 (A) the Secretary submits to Congress notifica-
14 tion of the intent to do so together with a complete
15 discussion of the justification for doing so; and

16 (B) 15 days have elapsed following the date of
17 the notification.

18 (3) The Secretary may not, under the authority pro-
19 vided in paragraph (1), obligate amounts for a purpose
20 stated in any of paragraphs (5) through (8) of subsection
21 (a) in excess of 125 percent of the specific amount author-
22 ized for such purpose.

1 **SEC. 1203. MODIFICATION AND WAIVER OF LIMITATION ON**
2 **USE OF FUNDS FOR CHEMICAL WEAPONS DE-**
3 **STRUCTION FACILITIES IN RUSSIA.**

4 (a) **MODIFICATION OF LIMITATION.**—Section 1305 of
5 the National Defense Authorization Act for Fiscal Year
6 2000 (22 U.S.C. 5952 note) is amended by striking “or
7 expended”.

8 (b) **WAIVER AUTHORITY.**—The conditions described
9 in section 1305 of the National Defense Authorization Act
10 for Fiscal Year 2000, as amended by subsection (a), shall
11 not apply to the obligation of funds during a fiscal year
12 for the planning, design, or construction of a chemical
13 weapons destruction facility in Russia if the President
14 submits to Congress a written certification with respect
15 to such fiscal year that includes—

16 (1) a statement as to why the waiver of the
17 conditions during the fiscal year covered by such
18 certification is consistent with the national security
19 interests of the United States; and

20 (2) a plan to promote a full and accurate dislo-
21 sure by Russia regarding the size, content, status,
22 and location of its chemical weapons stockpile.

1 **SEC. 1204. INCLUSION OF DESCRIPTIVE SUMMARIES IN AN-**
2 **NUAL COOPERATIVE THREAT REDUCTION**
3 **REPORTS AND BUDGET JUSTIFICATION MA-**
4 **TERIALS.**

5 Section 1307 of the Strom Thurmond National De-
6 fense Authorization Act for Fiscal Year 1999 (Public Law
7 105–261; 112 Stat. 2165; 22 U.S.C. 5952 note) is
8 amended—

9 (1) in subsection (a), by striking “as part of the
10 Secretary’s annual budget request to Congress” in
11 the matter preceding paragraph (1) and inserting
12 “in the materials and manner specified in subsection
13 (c)”;

14 (2) by adding at the end the following new sub-
15 section:

16 “(c) **INCLUSION IN CERTAIN MATERIALS SUBMITTED**
17 **TO CONGRESS.**—The summary required to be submitted
18 to Congress in a fiscal year under subsection (a) shall be
19 set forth by project category, and by amounts specified
20 in paragraphs (1) and (2) of that subsection in connection
21 with such project category, in each of the following:

22 “(1) The annual report on activities and assist-
23 ance under Cooperative Threat Reduction programs
24 required in such fiscal year under section 1308 of
25 the Floyd D. Spence National Defense Authorization

1 Act for Fiscal Year 2001 (as enacted into law by
2 Public Law 106–398).

3 “(2) The budget justification materials sub-
4 mitted to Congress in support of the Department of
5 Defense budget for the fiscal year succeeding such
6 fiscal year (as submitted with the budget of the
7 President under section 1105(a) of title 31, United
8 States Code).”.

9 **TITLE XIII—MEDICAL READI-**
10 **NESS TRACKING AND HEALTH**
11 **SURVEILLANCE**

12 **SEC. 1301. ANNUAL MEDICAL READINESS PLAN AND JOINT**
13 **MEDICAL READINESS OVERSIGHT COM-**
14 **MITTEE.**

15 (a) REQUIREMENT FOR PLAN.—The Secretary of De-
16 fense shall develop a comprehensive plan to improve med-
17 ical readiness, and Department of Defense tracking of the
18 health status, of members of the Armed Forces through-
19 out their service in the Armed Forces, and to strengthen
20 medical readiness and tracking before, during, and after
21 deployment of the personnel overseas. The matters covered
22 by the comprehensive plan shall include all elements that
23 are described in this title and the amendments made by
24 this title and shall comply with requirements in law.

1 (b) JOINT MEDICAL READINESS OVERSIGHT COM-
2 MITTEE.—

3 (1) ESTABLISHMENT.—The Secretary of De-
4 fense shall establish a Joint Medical Readiness Over-
5 sight Committee.

6 (2) COMPOSITION.—The members of the Com-
7 mittee are as follows:

8 (A) The Under Secretary of Defense for
9 Personnel and Readiness, who shall chair the
10 Committee.

11 (B) The Assistant Secretary of Defense for
12 Health Affairs.

13 (C) The Assistant Secretary of Defense for
14 Reserve Affairs.

15 (D) The Surgeons General of the Armed
16 Forces.

17 (E) The Assistant Secretary of the Army
18 for Manpower and Reserve Affairs.

19 (F) The Assistant Secretary of the Navy
20 for Manpower and Reserve Affairs.

21 (G) The Assistant Secretary of the Air
22 Force for Manpower, Reserve Affairs, Installa-
23 tions, and Environment.

24 (H) The Chief of the National Guard Bu-
25 reau.

1 (I) The Chief of Army Reserve.

2 (J) The Chief of Naval Reserve.

3 (K) The Chief of Air Force Reserve.

4 (L) The Commander, Marine Corps Re-
5 serve.

6 (M) The Director of the Defense Man-
7 power Data Center.

8 (N) A representative of the Department of
9 Veterans Affairs designated by the Secretary of
10 Veterans Affairs.

11 (O) Representatives of veterans and mili-
12 tary health advocacy organizations appointed to
13 the Committee by the Secretary of Defense.

14 (P) An individual from civilian life who is
15 recognized as an expert on military health care
16 treatment, including research relating to such
17 treatment.

18 (3) DUTIES.—The duties of the Committee are
19 as follows:

20 (A) To advise the Secretary of Defense on
21 the medical readiness and health status of the
22 members of the active and reserve components
23 of the Armed Forces.

24 (B) To advise the Secretary of Defense on
25 the compliance of the Armed Forces with the

1 medical readiness tracking and health surveil-
2 lance policies of the Department of Defense.

3 (C) To oversee the development and imple-
4 mentation of the comprehensive plan required
5 by subsection (a) and the actions required by
6 this title and the amendments made by this
7 title, including with respect to matters relating
8 to—

9 (i) the health status of the members
10 of the reserve components of the Armed
11 Forces;

12 (ii) accountability for medical readi-
13 ness;

14 (iii) medical tracking and health sur-
15 veillance;

16 (iv) declassification of information on
17 environmental hazards;

18 (v) postdeployment health care for
19 members of the Armed Forces; and

20 (vi) compliance with Department of
21 Defense and other applicable policies on
22 blood serum repositories.

23 (D) To ensure unity and integration of ef-
24 forts across functional and organizational lines
25 within the Department of Defense with regard

1 to medical readiness tracking and health status
2 surveillance of members of the Armed Forces.

3 (E) To establish and monitor compliance
4 with the medical readiness standards that are
5 applicable to members and those that are appli-
6 cable to units.

7 (F) To improve continuity of care in co-
8 ordination with the Secretary of Veterans Af-
9 fairs, for members of the Armed Forces sepa-
10 rating from active service with service-connected
11 medical conditions.

12 (G) To prepare and submit to the Sec-
13 retary of Defense and to the Committees on
14 Armed Services of the Senate and the House of
15 Representatives, not later than February 1 of
16 each year, a report on—

17 (i) the health status and medical read-
18 iness of the members of the Armed Forces,
19 including the members of reserve compo-
20 nents, based on the comprehensive plan re-
21 quired under subsection (a) and the ac-
22 tions required by this title and the amend-
23 ments made by this title; and

1 (ii) compliance with Department of
2 Defense policies on medical readiness
3 tracking and health surveillance.

4 (4) FIRST MEETING.—The first meeting of the
5 Committee shall be held not later than 90 days after
6 the date of the enactment of this Act.

7 **SEC. 1302. MEDICAL READINESS OF RESERVES.**

8 (a) COMPTROLLER GENERAL STUDY OF HEALTH OF
9 RESERVES ORDERED TO ACTIVE DUTY FOR OPERATIONS
10 ENDURING FREEDOM AND IRAQI FREEDOM.—

11 (1) REQUIREMENT FOR STUDY.—The Comp-
12 troller General of the United States shall carry out
13 a study of the health of the members of the reserve
14 components of the Armed Forces who have been
15 called or ordered to active duty for a period of more
16 than 30 days in support of Operation Enduring
17 Freedom and Operation Iraqi Freedom. The Comp-
18 troller General shall commence the study not later
19 than 180 days after the date of the enactment of
20 this Act.

21 (2) PURPOSES.—The purposes of the study
22 under this subsection are as follows:

23 (A) To review the health status and med-
24 ical fitness of the activated Reserves when they
25 were called or ordered to active duty.

1 (B) To review the effects, if any, on logis-
2 tics planning and the deployment schedules for
3 the operations referred to in paragraph (1) that
4 resulted from deficiencies in the health or med-
5 ical fitness of activated Reserves.

6 (C) To review compliance of military per-
7 sonnel with Department of Defense policies on
8 medical and physical fitness examinations and
9 assessments that are applicable to the reserve
10 components of the Armed Forces.

11 (3) REPORT.—The Comptroller General shall,
12 not later than one year after the date of the enact-
13 ment of this Act, submit a report on the results of
14 the study under this subsection to the Committees
15 on Armed Services of the Senate and the House of
16 Representatives. The report shall include the fol-
17 lowing matters:

18 (A) With respect to the matters reviewed
19 under subparagraph (A) of paragraph (2)—

20 (i) the percentage of activated Re-
21 serves who were determined to be medi-
22 cally unfit for deployment, together with
23 an analysis of the reasons why the member
24 was unfit, including medical illnesses or
25 conditions most commonly found among

1 the activated Reserves that were grounds
2 for determinations of medical unfitness for
3 deployment; and

4 (ii) the percentage of the activated
5 Reserves who, before being deployed, need-
6 ed medical care for health conditions iden-
7 tified when called or ordered to active
8 duty, together with an analysis of the types
9 of care that were provided for such condi-
10 tions and the reasons why such care was
11 necessary.

12 (B) With respect to the matters reviewed
13 under subparagraph (B) of paragraph (2)—

14 (i) the delays and other disruptions in
15 deployment schedules that resulted from
16 deficiencies in the health status or medical
17 fitness of activated Reserves; and

18 (ii) an analysis of the extent to which
19 it was necessary to merge units or other-
20 wise alter the composition of units, and the
21 extent to which it was necessary to merge
22 or otherwise alter objectives, in order to
23 compensate for limitations on the
24 deployability of activated Reserves result-

1 ing from deficiencies in the health status
2 or medical fitness of activated Reserves.

3 (C) With respect to the matters reviewed
4 under subparagraph (C) of paragraph (2), an
5 assessment of the extent of the compliance of
6 reserve component personnel with Department
7 of Defense policies on routine medical and
8 physical fitness examinations that are applica-
9 ble to the reserve components of the Armed
10 Forces.

11 (D) An analysis of the extent to which the
12 medical care, if any, provided to activated Re-
13 serves in each theater of operations referred to
14 in paragraph (1) related to preexisting condi-
15 tions that were not adequately addressed before
16 the deployment of such personnel to the the-
17 ater.

18 (4) DEFINITIONS.—In this subsection:

19 (A) The term “activated Reserves” means
20 the members of the Armed Forces referred to
21 in paragraph (1).

22 (B) The term “active duty for a period of
23 more than 30 days” has the meaning given
24 such term in section 101(d) of title 10, United
25 States Code.

1 (C) The term “health condition” includes a
2 mental health condition and a dental condition.

3 (D) The term “reserve components of the
4 Armed Forces” means the reserve components
5 listed in section 10101 of title 10, United
6 States Code.

7 (b) ACCOUNTABILITY FOR INDIVIDUAL AND UNIT
8 MEDICAL READINESS.—

9 (1) POLICY.—The Secretary of Defense shall
10 issue a policy to ensure that individual members and
11 commanders of reserve component units fulfill their
12 responsibilities for medical and dental readiness of
13 members of the units on the basis of—

14 (A) frequent periodic health assessment of
15 members (not less frequently than once every
16 two years) using the predeployment assessment
17 procedure required under section 1074f of title
18 10, United States Code, as the minimum stand-
19 ard of medical readiness; and

20 (B) any other information on the health
21 status of the members that is available to the
22 commanders.

23 (2) REVIEW AND FOLLOWUP CARE.—The regu-
24 lations under this subsection shall provide for review
25 of the health assessments under paragraph (1) by a

1 medical professional and for any followup care and
2 treatment that is needed for medical or dental readi-
3 ness.

4 (3) MODIFICATION OF PREDEPLOYMENT
5 HEALTH ASSESSMENT SURVEY.—In meeting the pol-
6 icy under paragraph (1), the Secretary shall—

7 (A) to the extent practicable, modify the
8 predeployment health assessment survey to
9 bring such survey into conformity with the de-
10 tailed postdeployment health assessment survey
11 in use as of October 1, 2004; and

12 (B) ensure the use of the predeployment
13 health assessment survey, as so modified, for
14 predeployment health assessments after that
15 date.

16 (c) UNIFORM POLICY ON DEFERRAL OF MEDICAL
17 TREATMENT PENDING DEPLOYMENT TO THEATERS OF
18 OPERATIONS.—

19 (1) REQUIREMENT FOR POLICY.—The Sec-
20 retary of Defense shall prescribe, for uniform appli-
21 cability throughout the Armed Forces, a policy on
22 deferral of medical treatment of members pending
23 deployment.

24 (2) CONTENT.—The policy prescribed under
25 paragraph (1) shall specify the following matters:

1 (A) The circumstances under which treat-
2 ment for medical conditions may be deferred to
3 be provided within a theater of operations in
4 order to prevent delay or other disruption of a
5 deployment to that theater.

6 (B) The circumstances under which med-
7 ical conditions are to be treated before deploy-
8 ment to that theater.

9 **SEC. 1303. BASELINE HEALTH DATA COLLECTION PRO-**
10 **GRAM.**

11 (a) REQUIREMENT FOR PROGRAM.—

12 (1) IN GENERAL.—Chapter 55 of title 10,
13 United States Code, is amended by inserting after
14 section 1092 the following new section:

15 **“§ 1092a. Persons entering the armed forces: baseline**
16 **health data**

17 “(a) PROGRAM REQUIRED.—The Secretary of De-
18 fense shall carry out a program—

19 “(1) to collect baseline health data from all per-
20 sons entering the armed forces;

21 “(2) to provide for computerized compilation
22 and maintenance of the baseline health data; and

23 “(3) to analyze the data.

24 “(b) PURPOSES.—The program under this section
25 shall be designed to achieve the following purposes:

1 “(1) To facilitate understanding of how expo-
2 sures related to service in the armed forces affect
3 health.

4 “(2) To facilitate development of early interven-
5 tion and prevention programs to protect health and
6 readiness.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of such chapter is amended
9 by inserting after the item relating to section 1092
10 the following new item:

“1092a. Persons entering the armed forces: baseline health data.”.

11 (3) TIME FOR IMPLEMENTATION.—The Sec-
12 retary of Defense shall implement the program re-
13 quired under section 1092a of title 10, United
14 States Code (as added by paragraph (1)), not later
15 than two years after the date of the enactment of
16 this Act.

17 (b) INTERIM STANDARDS FOR BLOOD SAMPLING.—
18 The Secretary of Defense shall require under the medical
19 tracking system administered under section 1074f of title
20 10, United States Code, that—

21 (1) the blood samples necessary for the
22 predeployment medical examination of a member of
23 the Armed Forces required under subsection (b) of
24 such section be drawn not earlier than 60 days be-
25 fore the date of the deployment; and

1 (2) the blood samples necessary for the
2 postdeployment medical examination of a member of
3 the Armed Forces required under such subsection be
4 drawn not later than 30 days after the date on
5 which the deployment ends.

6 **SEC. 1304. MEDICAL CARE AND TRACKING AND HEALTH**
7 **SURVEILLANCE IN THE THEATER OF OPER-**
8 **ATIONS.**

9 (a) **RECORDKEEPING POLICY.**—The Secretary of De-
10 fense shall prescribe a policy that requires the records of
11 all medical care provided to a member of the Armed
12 Forces in a theater of operations to be maintained as part
13 of a complete health record for the member.

14 (b) **IN-THEATER MEDICAL TRACKING AND HEALTH**
15 **SURVEILLANCE.**—

16 (1) **REQUIREMENT FOR EVALUATION.**—The
17 Secretary of Defense shall evaluate the system for
18 the medical tracking and health surveillance of mem-
19 bers of the Armed Forces in theaters of operations
20 and take such actions as may be necessary to im-
21 prove the medical tracking and health surveillance.

22 (2) **REPORT.**—Not later than one year after the
23 date of the enactment of this Act, the Secretary of
24 Defense shall submit a report on the actions taken
25 under paragraph (1) to the Committees on Armed

1 Services of the Senate and the House of Representa-
2 tives. The report shall include the following matters:

3 (A) An analysis of the strengths and weak-
4 nesses of the medical tracking system adminis-
5 tered under section 1074f of title 10, United
6 States Code.

7 (B) An analysis of the efficacy of health
8 surveillance systems as a means of detecting—

9 (i) any health problems (including
10 mental health conditions) of members of
11 the Armed Forces contemporaneous with
12 the performance of the assessment under
13 the system; and

14 (ii) exposures of the assessed mem-
15 bers to environmental hazards that poten-
16 tially lead to future health problems.

17 (C) An analysis of the strengths and weak-
18 nesses of such medical tracking and surveillance
19 systems as a means for supporting future re-
20 search on health issues.

21 (D) Recommended changes to such medical
22 tracking and health surveillance systems.

23 (E) A summary of scientific literature on
24 blood sampling procedures used for detecting

1 and identifying exposures to environmental haz-
2 ards.

3 (F) An assessment of whether there is a
4 need for changes to regulations and standards
5 for drawing blood samples for effective tracking
6 and health surveillance of the medical condi-
7 tions of personnel before deployment, upon the
8 end of a deployment, and for a followup period
9 of appropriate length.

10 (c) PLAN TO OBTAIN HEALTH CARE RECORDS FROM
11 ALLIES.—The Secretary of Defense shall develop a plan
12 for obtaining all records of medical treatment provided to
13 members of the Armed Forces by allies of the United
14 States in Operation Enduring Freedom and Operation
15 Iraqi Freedom. The plan shall specify the actions that are
16 to be taken to obtain all such records.

17 (d) POLICY ON IN-THEATER PERSONNEL LOCATOR
18 DATA.—Not later than one year after the date of the en-
19 actment of this Act, the Secretary of Defense shall pre-
20 scribe a Department of Defense policy on the collection
21 and dissemination of in-theater individual personnel loca-
22 tion data.

1 **SEC. 1305. DECLASSIFICATION OF INFORMATION ON EXPO-**
2 **SURES TO ENVIRONMENTAL HAZARDS.**

3 (a) REQUIREMENT FOR REVIEW.—The Secretary of
4 Defense shall review and, as determined appropriate, re-
5 vise the classification policies of the Department of De-
6 fense with a view to facilitating the declassification of data
7 that is potentially useful for the monitoring and assess-
8 ment of the health of members of the Armed Forces who
9 have been exposed to environmental hazards during de-
10 ployments overseas, including the following data:

11 (1) In-theater injury rates.

12 (2) Data derived from environmental surveil-
13 lance.

14 (3) Health tracking and surveillance data.

15 (b) CONSULTATION WITH COMMANDERS OF THE-
16 ATER COMBATANT COMMANDS.—The Secretary shall, to
17 the extent that the Secretary considers appropriate, con-
18 sult with the senior commanders of the in-theater forces
19 of the combatant commands in carrying out the review
20 and revising policies under subsection (a).

21 **SEC. 1306. ENVIRONMENTAL HAZARDS.**

22 (a) REPORT ON TRAINING OF FIELD MEDICAL PER-
23 SONNEL.—

24 (1) REQUIREMENT FOR REPORT.—Not later
25 than one year after the date of the enactment of this
26 Act, the Secretary of Defense shall submit to the

1 Committees on Armed Services of the Senate and
2 the House of Representatives a report on the train-
3 ing on environmental hazards that is provided by the
4 Armed Forces to medical personnel of the Armed
5 Forces who are deployable to the field in direct sup-
6 port of combat personnel.

7 (2) CONTENT.—The report under paragraph
8 (1) shall include the following:

9 (A) An assessment of the adequacy of the
10 training regarding—

11 (i) the identification of common envi-
12 ronmental hazards and exposures to such
13 hazards; and

14 (ii) the prevention and treatment of
15 adverse health effects of such exposures.

16 (B) A discussion of the actions taken and
17 to be taken to improve such training.

18 (c) REPORT ON RESPONSES TO HEALTH CONCERNS
19 OF MEMBERS.—

20 (1) REQUIREMENT FOR REPORT.—Not later
21 than 180 days after the date of the enactment of
22 this Act, the Assistant Secretary of Defense for
23 Health Affairs shall submit to the Secretary of De-
24 fense and the Committees on Armed Services of the
25 Senate and the House of Representatives a report on

1 Department of Defense responses to concerns ex-
2 pressed by members of the Armed Forces during
3 post-deployment health assessments about possibili-
4 ties that the members were exposed to environ-
5 mental hazards deleterious to the members' health
6 during a deployment overseas.

7 (2) CONTENT.—The report regarding health
8 concerns submitted under paragraph (1) shall in-
9 clude the following:

10 (A) A discussion of the actions taken by
11 Department of Defense officials to investigate
12 the circumstances underlying such concerns in
13 order to determine the validity of the concerns.

14 (B) A discussion of the actions taken by
15 Department of Defense officials to evaluate or
16 treat members and former members of the
17 Armed Forces who are confirmed to have been
18 exposed to environmental hazards deleterious to
19 their health during deployments of the Armed
20 Forces.

21 **SEC. 1307. POST-DEPLOYMENT MEDICAL CARE RESPON-**
22 **SIBILITIES OF INSTALLATION COMMANDERS.**

23 (a) REQUIREMENT FOR REGULATIONS.—The Sec-
24 retary of Defense shall prescribe a policy that requires the
25 commander of each military installation at which members

1 of the Armed Forces are to be processed upon redeploy-
2 ment from an overseas deployment—

3 (1) to identify and analyze the anticipated
4 health care needs of such members before the arrival
5 of such members at that installation; and

6 (2) to report such needs to the Secretary.

7 (b) HEALTH CARE TO MEET NEEDS.—The policy
8 under this section shall include procedures for the com-
9 mander of each military installation described in sub-
10 section (a) to meet the anticipated health care needs that
11 are identified by the commander in the performance of du-
12 ties under the regulations, including the following:

13 (1) Arrangements for health care provided by
14 the Secretary of Veterans Affairs.

15 (2) Procurement of services from local health
16 care providers.

17 (3) Temporary employment of health care per-
18 sonnel to provide services at such installation.

19 **SEC. 1308. FULL IMPLEMENTATION OF MEDICAL READI-**
20 **NESS TRACKING AND HEALTH SURVEIL-**
21 **LANCE PROGRAM AND FORCE HEALTH PRO-**
22 **TECTION AND READINESS PROGRAM.**

23 (a) IMPLEMENTATION AT ALL LEVELS.—The Sec-
24 retary of Defense, in conjunction with the Secretaries of
25 the military departments, shall take such actions as are

1 necessary to ensure that the Army, Navy, Air Force, and
2 Marine Corps fully implement at all levels—

3 (1) the Medical Readiness Tracking and Health
4 Surveillance Program under this title and the
5 amendments made by this title; and

6 (2) the Force Health Protection and Readiness
7 Program of the Department of Defense (relating to
8 the prevention of injury and illness and the reduc-
9 tion of disease and noncombat injury threats).

10 (b) ACTION OFFICIAL.—The Secretary of Defense
11 may act through the Under Secretary of Defense for Per-
12 sonnel and Readiness in carrying out subsection (a).

13 **SEC. 1309. OTHER MATTERS.**

14 (a) ANNUAL REPORTS.—

15 (1) REQUIREMENT FOR REPORTS.—

16 (A) Chapter 55 of title 10, United States
17 Code, is amended by inserting after section
18 1073a the following new section:

19 **“§ 1073b. Recurring reports**

20 “(a) ANNUAL REPORT ON HEALTH PROTECTION
21 QUALITY.—(1) The Secretary of Defense shall submit to
22 the Committees on Armed Services of the Senate and the
23 House of Representatives each year a report on the Force
24 Health Protection Quality Assurance Program of the De-

1 partment of Defense. The report shall include the fol-
2 lowing matters:

3 “(A) The results of an audit of the extent to
4 which the serum samples required to be obtained
5 from members of the armed forces before and after
6 a deployment are stored in the serum repository of
7 the Department of Defense.

8 “(B) The results of an audit of the extent to
9 which the health assessments required for members
10 of the armed forces before and after a deployment
11 are being maintained in the electronic database of
12 the Defense Medical Surveillance System.

13 “(C) An analysis of the actions taken by the
14 Department of Defense personnel to respond to
15 health concerns expressed by members of the armed
16 forces upon return from a deployment.

17 “(D) An analysis of the actions taken by the
18 Secretary to evaluate or treat members and former
19 members of the armed forces who are confirmed to
20 have been exposed to occupational or environmental
21 hazards deleterious to their health during a deploy-
22 ment.

23 “(2) The Secretary of Defense shall act through the
24 Assistant Secretary of Defense for Health Affairs in car-
25 rying out this subsection.

1 “(b) ANNUAL REPORT ON RECORDING OF HEALTH
2 ASSESSMENT DATA IN MILITARY PERSONNEL
3 RECORDS.—The Secretary of Defense shall issue each
4 year a report on the compliance by the military depart-
5 ments with applicable policies on the recording of health
6 assessment data in military personnel records. The report
7 shall include a discussion of the extent to which immuniza-
8 tion status and predeployment and postdeployment health
9 care data is being recorded in such records.”.

10 (B) The table of sections at the beginning
11 of such chapter is amended by inserting after
12 the item relating to section 1073a the following
13 new item:

“1073b. Recurring reports.”.

14 (2) INITIAL REPORT.—The first report under
15 section 1073b(a) of title 10, United States Code (as
16 added by paragraph (1)), shall be completed not
17 later than 180 days after the date of the enactment
18 of this Act.

19 (b) INTERNET ACCESSIBILITY OF HEALTH ASSESS-
20 MENT INFORMATION FOR MEMBERS OF THE ARMED
21 FORCES.—Not later than one year after the date of the
22 enactment of this Act, the Chief Information Officer of
23 each military department shall ensure that the online por-
24 tal website of that military department includes the fol-
25 lowing information relating to health assessments:

1 (1) Information on the Department of Defense
2 policies regarding predeployment and
3 postdeployment health assessments, including poli-
4 cies on the following matters:

5 (A) Health surveys.

6 (B) Physical examinations.

7 (C) Collection of blood samples and other
8 tissue samples.

9 (2) Procedural information on compliance with
10 such policies, including the following information:

11 (A) Information for determining whether a
12 member is in compliance.

13 (B) Information on how to comply.

14 (3) Health assessment surveys that are either—

15 (A) web-based; or

16 (B) accessible (with instructions) in
17 printer-ready form by download.

18 **SEC. 1310. USE OF CIVILIAN EXPERTS AS CONSULTANTS.**

19 Nothing in this title or an amendment made by this
20 title shall be construed to limit the authority of the Sec-
21 retary of Defense to procure the services of experts outside
22 the Federal Government for performing any function to
23 comply with requirements for readiness tracking and
24 health surveillance of members of the Armed Forces that
25 are applicable to the Department of Defense.

1 **DIVISION B—MILITARY CON-**
 2 **STRUCTION AUTHORIZA-**
 3 **TIONS**

4 **SEC. 2001. SHORT TITLE.**

5 This division may be cited as the “Military Construc-
 6 tion Authorization Act for Fiscal Year 2005”.

7 **TITLE XXI—ARMY**

8 **SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND**
 9 **ACQUISITION PROJECTS.**

10 (a) **INSIDE THE UNITED STATES.**—Using amounts
 11 appropriated pursuant to the authorization of appropria-
 12 tions in section 2104(a)(1), the Secretary of the Army
 13 may acquire real property and carry out military construc-
 14 tion projects for the installations and locations inside the
 15 United States, and in the amounts, set forth in the fol-
 16 lowing table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	\$23,690,000
	Fort Rucker	\$16,500,000
Alaska	Fort Richardson	\$24,300,000
	Fort Wainwright	\$92,459,000
Arizona	Fort Huachuca	\$18,000,000
California	Fort Irwin	\$38,100,000
	Sierra Army Depot	\$13,600,000
Colorado	Fort Carson	\$63,158,000
Georgia	Fort Benning	\$71,777,000
	Fort Gillem	\$5,800,000
	Fort McPherson	\$4,900,000
	Fort Stewart/Hunter Army Air Field	\$65,495,000
Hawaii	Helemano Military Reservation ...	\$75,300,000
	Hickam Air Field	\$11,200,000
	Pohakuloa Training Area	\$40,000,000
	Schofield Barracks	\$162,792,000
	Wheeler Army Air Field	\$24,000,000
Kansas	Fort Riley	\$59,550,000
Kentucky	Fort Campbell	\$92,000,000
	Fort Knox	\$75,750,000

Army: Inside the United States—Continued

State	Installation or location	Amount
Louisiana	Fort Polk	\$70,953,000
Maryland	Aberdeen Proving Ground	\$13,000,000
Missouri	Fort Leonard Wood	\$28,150,000
New Mexico	White Sands Missile Range	\$33,000,000
New York	Fort Drum	\$7,950,000
	Fort Hamilton	\$7,600,000
	Military Entrance Processing Station, Buffalo.	\$6,200,000
	United States Military Academy, West Point.	\$60,000,000
North Carolina	Fort Bragg	\$101,687,000
Oklahoma	Fort Sill	\$14,400,000
Pennsylvania	Letterkenny Depot	\$11,400,000
Texas	Fort Bliss	\$20,100,000
	Fort Hood	\$78,088,000
	Fort Sam Houston	\$11,400,000
Virginia	Fort A.P. Hill	\$14,775,000
	Fort Myer	\$49,526,000
Washington	Fort Lewis	\$57,200,000
	Total	\$1,563,800,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts
2 appropriated pursuant to the authorization of appropria-
3 tions in section 2104(a)(2), the Secretary of the Army
4 may acquire real property and carry out military construc-
5 tion projects for the installations and locations outside the
6 United States, and in the amounts, set forth in the fol-
7 lowing table:

Army: Outside the United States

Country	Installation or location	Amount
Germany	Grafenwoehr	\$77,200,000
Italy	Livorno	\$26,000,000
Korea	Camp Humphreys	\$12,000,000
	Total	\$115,200,000

8 SEC. 2102. FAMILY HOUSING.

9 (a) CONSTRUCTION AND ACQUISITION.—Using
10 amounts appropriated pursuant to the authorization of ap-
11 propriations in section 2104(a)(5)(A), the Secretary of the

1 Army may construct or acquire family housing units (in-
 2 cluding land acquisition and supporting facilities) at the
 3 installations or locations, for the purposes, and in the
 4 amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Richardson	92 Units	\$42,000,000
	Fort Wainwright	246 Units	\$124,000,000
Arizona	Fort Huachuca	205 Units	\$41,000,000
	Yuma Proving Grounds	55 Units	\$14,900,000
Kansas	Fort Riley	126 Units	\$33,000,000
New Mexico	White Sands Missile Range	156 Units	\$31,000,000
Oklahoma	Fort Sill	247 Units	\$47,000,000
Virginia	Fort Lee	218 Units	\$46,000,000
	Fort Monroe	68 Units	\$16,000,000
Total			\$394,900,000

5 (b) **PLANNING AND DESIGN.**—Using amounts appro-
 6 priated pursuant to the authorization of appropriations in
 7 section 2104(a)(5)(A), the Secretary of the Army may
 8 carry out architectural and engineering services and con-
 9 struction design activities with respect to the construction
 10 or improvement of family housing units in an amount not
 11 to exceed \$29,209,000.

12 **SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING**
 13 **UNITS.**

14 Subject to section 2825 of title 10, United States
 15 Code, and using amounts appropriated pursuant to the
 16 authorization of appropriations in section 2104(a)(5)(A),
 17 the Secretary of the Army may improve existing military
 18 family housing units in an amount not to exceed
 19 \$211,990,000.

1 **SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

2 (a) IN GENERAL.—Funds are hereby authorized to
3 be appropriated for fiscal years beginning after September
4 30, 2004, for military construction, land acquisition, and
5 military family housing functions of the Department of the
6 Army in the total amount of \$3,507,891,000, as follows:

7 (1) For military construction projects inside the
8 United States authorized by section 2101(a),
9 \$1,534,500,000.

10 (2) For military construction projects outside
11 the United States authorized by section 2101(b),
12 \$115,200,000.

13 (3) For unspecified minor military construction
14 projects authorized by section 2805 of title 10,
15 United States Code, \$20,000,000.

16 (4) For architectural and engineering services
17 and construction design under section 2807 of title
18 10, United States Code, \$154,335,000.

19 (5) For military family housing functions:

20 (A) For construction and acquisition, plan-
21 ning and design, and improvement of military
22 family housing and facilities, \$636,099,000.

23 (B) For support of military family housing
24 (including the functions described in section
25 2833 of title 10, United States Code),
26 \$928,907,000.

1 (6) For the construction of phase 3 of a bar-
2 racks complex renewal, Capron Road, Schofield Bar-
3 racks, Hawaii, authorized by section 2101(a) of the
4 Military Construction Authorization Act for Fiscal
5 Year 2003 (division B of Public Law 107–314; 116
6 Stat. 2681), \$48,000,000.

7 (7) For the construction of phase 3 of a main-
8 tenance complex at Fort Sill, Oklahoma, authorized
9 by section 2101(a) of the Military Construction Au-
10 thorization Act for Fiscal Year 2003 (division B of
11 Public Law 107–314; 116 Stat. 2681), as amended
12 by section 2106 of this Act, \$13,100,000.

13 (8) For the construction of phase 2 of a bar-
14 racks complex, 5th and 16th Street, at Fort Stew-
15 art/Hunter Army Air Field, Georgia, authorized by
16 section 2101(a) of the Military Construction Author-
17 ization Act for Fiscal Year 2004 (division B of Pub-
18 lic Law 108–136; 117 Stat. 1697), as amended by
19 section 2105 of this Act, \$32,950,000.

20 (9) For the construction of phase 2 of the
21 Lewis and Clark instructional facility, at Fort Leav-
22 enworth, Kansas, authorized by section 2101(a) of
23 the Military Construction Authorization Act for Fis-
24 cal Year 2004 (division B of Public Law 108–136;
25 117 Stat. 1697), \$44,000,000.

1 (10) For the construction of phase 2 of a bar-
2 racks complex at Wheeler Sack Army Air Field,
3 Fort Drum, New York, authorized by section
4 2101(a) of the Military Construction Authorization
5 Act for Fiscal Year 2004 (division B of Public Law
6 108–136; 117 Stat. 1697), as amended by section
7 2105 of this Act, \$48,000,000.

8 (11) For the construction of phase 2 of a bar-
9 racks complex, Bastogne Drive, at Fort Bragg,
10 North Carolina, authorized by section 2101(a) of the
11 Military Construction Authorization Act for Fiscal
12 Year 2004 (division B of Public Law 108–136; 117
13 Stat. 1697), \$48,000,000.

14 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION
15 PROJECTS.—Notwithstanding the cost variations author-
16 ized by section 2853 of title 10, United States Code, and
17 any other cost variation authorized by law, the total cost
18 of all projects carried out under section 2101 of this Act
19 may not exceed—

20 (1) the total amount authorized to be appro-
21 priated under paragraphs (1) and (2) of subsection
22 (a);

23 (2) \$41,000,000 (the balance of the amount au-
24 thorized under section 2101(a) for an upgrade to

1 Drum Road at the Helemano Military Reservation,
2 Hawaii);

3 (3) \$25,000,000 (the balance of the amount au-
4 thorized under section 2101(a) to construct a vehicle
5 maintenance facility at Schofield Barracks, Hawaii);

6 (4) \$25,000,000 (the balance of the amount au-
7 thorized under section 2101(a) for construction of a
8 barracks complex, 42nd Street and Indiana Avenue,
9 at Fort Campbell, Kentucky);

10 (5) \$22,000,000 (the balance of the amount au-
11 thorized under section 2101(a) for the construction
12 of a basic combat training complex at Fort Knox,
13 Kentucky);

14 (6) \$31,000,000 (the balance of the amount au-
15 thorized under section 2101(a) for construction of a
16 barracks complex, Blackjack Street, Fort Bragg,
17 North Carolina); and

18 (7) \$25,500,000 (the balance of the amount au-
19 thorized under section 2101(a) for construction of a
20 library and learning center at the United States
21 Military Academy, New York).

1 **SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT**
2 **CERTAIN FISCAL YEAR 2004 PROJECTS.**

3 The table in section 2101(a) of the Military Construc-
4 tion Authorization Act for Fiscal Year 2004 (division B
5 of Public Law 108–136; 117 Stat. 1697) is amended—

6 (1) in the item relating to Fort Stewart, Geor-
7 gia, by striking “\$113,500,000” in the amount col-
8 umn and inserting “\$114,450,000”;

9 (2) in the item relating to Fort Drum, New
10 York, by striking “\$130,700,000” in the amount
11 column and inserting “\$135,700,000”; and

12 (3) by striking the amount identified as the
13 total in the amount column and inserting
14 “\$1,043,150,000”.

15 **SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT**
16 **CERTAIN FISCAL YEAR 2003 PROJECT.**

17 The table in section 2101(a) of the Military Construc-
18 tion Authorization Act for Fiscal Year 2003 (division B
19 of Public Law 107–314; 116 Stat. 2681), as amended by
20 section 2105(a)(2) of the Military Construction Authoriza-
21 tion Act for Fiscal Year 2004 (division B of Public Law
22 108–136; 117 Stat. 1701), is further amended—

23 (1) in the item relating to Fort Sill, Oklahoma,
24 by striking “\$39,652,000” in the amount column
25 and inserting “\$40,752,000”; and

1 (2) by striking the amount identified as the
 2 total in the amount column and inserting
 3 “\$1,157,267,000”.

4 TITLE XXII—NAVY

5 SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND 6 ACQUISITION PROJECTS.

7 (a) INSIDE THE UNITED STATES.—Using amounts
 8 appropriated pursuant to the authorization of appropria-
 9 tions in section 2204(a)(1), the Secretary of the Navy may
 10 acquire real property and carry out military construction
 11 projects for the installations and locations inside the
 12 United States, and in the amounts, set forth in the fol-
 13 lowing table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	\$26,670,000
California	Marine Corps Base, Camp Pendleton	\$38,455,000
	Naval Air Facility, El Centro	\$54,331,000
	Recruit Depot, San Diego	\$8,110,000
Connecticut	Naval Submarine Base, New London	\$50,302,000
District of Columbia	Naval Observatory, Washington	\$3,239,000
Florida	Eglin Air Force Base	\$2,060,000
	Naval Station, Mayport	\$6,200,000
Georgia	Strategic Weapons Facility Atlantic, Kings Bay	\$16,000,000
	Naval Training Station, Great Lakes	\$74,781,000
Maine	Naval Air Station, Brunswick	\$4,690,000
	Portsmouth Naval Station	\$7,860,000
Maryland	Naval Surface Warfare Center, Indian Head	\$13,900,000
Mississippi	Naval Construction Battalion Center, Gulfport	\$4,350,000
	Naval Air Station, Fallon	\$4,980,000
North Carolina	Marine Corps Air Station, New River	\$35,140,000
	Marine Corps Base, Camp Lejeune	\$13,420,000
	Washington County	\$136,900,000
Rhode Island	Naval Station Newport	\$9,080,000
South Carolina	Naval Weapons Station, Charleston	\$18,140,000
Virginia	Camp Elmore Marine Corps Detach- ment.	\$13,500,000
	Marine Corps Base, Quantico	\$46,270,000
	Naval Air Station, Oceana	\$2,770,000
	Naval Amphibious Base, Little Creek	\$2,850,000
	Naval Station, Norfolk	\$4,330,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
Washington	Naval Weapons Station, Yorktown	\$9,870,000
	Naval Shipyard Puget Sound, Bremerton.	\$20,305,000
	Naval Station, Bremerton	\$74,125,000
	Strategic Weapons Facility Pacific, Bangor	\$131,090,000
	Total	\$833,718,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts
2 appropriated pursuant to the authorization of appropri-
3 ations in section 2204(a)(2), the Secretary of the Navy may
4 acquire real property and carry out military construction
5 projects for the locations outside the United States, and
6 in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Diego Garcia	Naval Support Facility, Diego Garcia	\$17,500,000
Guam	Naval Station, Guam	\$33,200,000
Italy	Sigonella	\$22,550,000
	Total	\$73,250,000

7 (c) UNSPECIFIED WORLDWIDE.—Using amounts ap-
8 propriated pursuant to the authorization of appropriations
9 in section 2204(a)(3), the Secretary of the Navy may ac-
10 quire real property and carry out military construction
11 projects for the installations or locations, and in the
12 amount, set forth in the following table:

Navy: Unspecified Worldwide

Location	Installation or location	Amount
Worldwide Unspecified ...	Unspecified Worldwide	\$52,658,000
	Total	\$52,658,000

1 **SEC. 2202. FAMILY HOUSING.**

2 Using amounts appropriated pursuant to the author-
 3 ization of appropriations in section 2204(a)(6)(A), the
 4 Secretary of the Navy may construct or acquire family
 5 housing units (including land acquisition and supporting
 6 facilities) at the installations or locations, for the pur-
 7 poses, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation or Location	Purpose	Amount
North Carolina	Marine Corps Air Station, Cherry Point	198 Units	\$27,002,000
		Total	\$27,002,000

8 **SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING**
 9 **UNITS.**

10 Subject to section 2825 of title 10, United States
 11 Code, and using amounts appropriated pursuant to the
 12 authorization of appropriations in section 2204(a)(6)(A),
 13 the Secretary of the Navy may improve existing military
 14 family housing units in an amount not to exceed
 15 \$112,105,000.

16 **SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

17 (a) IN GENERAL.—Funds are hereby authorized to
 18 be appropriated for fiscal years beginning after September
 19 30, 2004, for military construction, land acquisition, and
 20 military family housing functions of the Department of the
 21 Navy in the total amount of \$1,843,716,000, as follows:

1 (1) For military construction projects inside the
2 United States authorized by section 2201(a),
3 \$694,338,000.

4 (2) For military construction projects outside
5 the United States authorized by section 2201(b),
6 \$73,250,000.

7 (3) For military construction projects at un-
8 specified worldwide locations authorized by section
9 2201(c), \$18,560,000.

10 (4) For unspecified minor military construction
11 projects authorized by section 2805 of title 10,
12 United States Code, \$12,000,000.

13 (5) For architectural and engineering services
14 and construction design under section 2807 of title
15 10, United States Code, \$87,067,000.

16 (6) For military family housing functions:

17 (A) For construction and acquisition, plan-
18 ning and design, and improvement of military
19 family housing and facilities, \$139,107,000.

20 (B) For support of military family housing
21 (including functions described in section 2833
22 of title 10, United States Code), \$704,504,000.

23 (7) For the construction of phase 2 of the ter-
24 tiary sewage treatment plant at Marine Corps Base,
25 Camp Pendleton, California, authorized by section

1 2201(a) of the Military Construction Authorization
2 Act for Fiscal Year 2004 (division B of Public Law
3 108–136; 117 Stat. 1703), \$25,690,000.

4 (8) For the construction of phase 2 of the gen-
5 eral purpose berthing pier at Naval Weapons Sta-
6 tion, Earle, New Jersey, authorized by section
7 2201(a) of the Military Construction Authorization
8 Act for Fiscal Year 2004, \$49,200,000.

9 (9) For the construction of phase 2 of pier 11
10 replacement at Naval Station, Norfolk, Virginia, au-
11 thorized by section 2201(a) of the Military Construc-
12 tion Authorization Act for Fiscal Year 2004,
13 \$40,000,000.

14 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION
15 PROJECTS.—Notwithstanding the cost variations author-
16 ized by section 2853 of title 10, United States Code, and
17 any other cost variation authorized by law, the total cost
18 of all projects carried out under section 2201 of this Act
19 may not exceed—

20 (1) the total amount authorized to be appro-
21 priated under paragraphs (1), (2), and (3) of sub-
22 section (a);

23 (2) \$21,000,000 (the balance of the amount au-
24 thorized under section 2201(a) for the replacement

1 of an aircraft parking apron and hangar at Naval
2 Air Facility El Centro, California);

3 (3) \$70,000,000 (the balance of the amount au-
4 thorized under section 2201(a) to acquire land inter-
5 ests for an outlying landing field in Washington
6 County, North Carolina);

7 (4) \$95,320,000 (the balance of the amount au-
8 thorized under section 2201(a) for construction of a
9 limited area production and storage complex at the
10 Strategic Weapons Facility Pacific, Bangor, Wash-
11 ington); and

12 (5) \$40,000,000 (the balance of the amount au-
13 thorized under section 2201(a) for the construction
14 of a bachelor enlisted quarters at Naval Station
15 Bremerton, Washington).

16 **SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT**
17 **CERTAIN FISCAL YEAR 2004 PROJECTS.**

18 The table in section 2201(a) of the Military Construc-
19 tion Authorization Act for Fiscal Year 2004 (division B
20 of Public Law 108–136; 117 Stat. 1703) is amended—

21 (1) in the item relating to Various Locations,
22 CONUS, by striking “\$56,360,000” in the amount
23 column and inserting “\$61,510,000”; and

1 (2) by striking the amount identified as the
 2 total in the amount column and inserting
 3 “\$1,341,022,000”.

4 **TITLE XXIII—AIR FORCE**

5 **SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND** 6 **LAND ACQUISITION PROJECTS.**

7 (a) **INSIDE THE UNITED STATES.**—Using amounts
 8 appropriated pursuant to the authorization of appropria-
 9 tions in section 2304(1), the Secretary of the Air Force
 10 may acquire real property and carry out military construc-
 11 tion projects for the installations and locations inside the
 12 United States, and in the amounts, set forth in the fol-
 13 lowing table:

Air Force: Inside the United States

State	Installation or location	Amount
Alaska	Elmendorf Air Force Base	\$54,057,000
Arizona	Davis-Monthan Air Force Base	\$10,029,000
	Luke Air Force Base	\$10,000,000
Arkansas	Little Rock Air Force Base	\$5,031,000
California	Beale Air Force Base	\$10,186,000
	Edwards Air Force Base	\$9,965,000
	Travis Air Force Base	\$15,244,000
Colorado	Buckley Air Force Base	\$12,247,000
Delaware	Dover Air Force Base	\$9,500,000
Florida	Patrick Air Force Base	\$8,800,000
Georgia	Moody Air Force Base	\$9,600,000
	Robins Air Force Base	\$15,000,000
Hawaii	Hickam Air Force Base	\$34,400,000
	Maui Site	\$7,500,000
Louisiana	Barksdale Air Force Base	\$13,800,000
Maryland	Andrews Air Force Base	\$17,100,000
Mississippi	Columbus Air Force Base	\$7,700,000
Montana	Malmstrom Air Force Base	\$5,600,000
Nebraska	Offutt Air Force Base	\$6,721,000
New Mexico	Cannon Air Force Base	\$9,500,000
North Carolina	Pope Air Force Base	\$15,150,000
North Dakota	Minot Air Force Base	\$9,900,000
Ohio	Wright-Patterson Air Force Base	\$9,200,000
Oklahoma	Altus Air Force Base	\$10,500,000
	Tinker Air Force Base	\$8,000,000
South Carolina	Shaw Air Force Base	\$3,300,000
South Dakota	Ellsworth Air Force Base	\$11,800,000
Tennessee	Arnold Air Force Base	\$22,000,000
Texas	Dyess Air Force Base	\$11,000,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
Utah	Lackland Air Force Base	\$2,596,000
	Sheppard Air Force Base	\$50,284,000
	Hill Air Force Base	\$20,813,000
	Wyoming	F.E. Warren Air Force Base
	Total	\$452,023,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts
2 appropriated pursuant to the authorization of appropria-
3 tions in section 2304(2), the Secretary of the Air Force
4 may acquire real property and carry out military construc-
5 tion projects for the installations and locations outside the
6 United States, and in the amounts, set forth in the fol-
7 lowing table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	\$25,404,000
Greenland	Thule Air Base	\$19,800,000
Guam	Andersen Air Base	\$19,593,000
Italy	Aviano Air Base	\$6,760,000
Korea	Kunsan Air Base	\$37,100,000
	Osan Air Base	\$18,600,000
Portugal	Lajes Field, Azores	\$5,689,000
United Kingdom	Royal Air Force, Lakenheath	\$5,500,000
	Total	\$138,446,000

8 (c) UNSPECIFIED WORLDWIDE.—Using amounts ap-
9 propriated pursuant to the authorization of appropriations
10 in section 2304(3), the Secretary of the Air Force may
11 acquire real property and carry out military construction
12 projects for the installations and locations, and in the
13 amounts, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation or location	Amount
Worldwide Classified	Worldwide Unspecified Classified	\$28,794,000

Air Force: Unspecified Worldwide—Continued

Location	Installation or location	Amount
Worldwide Unspecified	Worldwide Unspecified	\$26,121,000
	Total	\$54,915,000

1 SEC. 2302. FAMILY HOUSING.

2 (a) CONSTRUCTION AND ACQUISITION.—Using
3 amounts appropriated pursuant to the authorization of ap-
4 propriations in section 2304(6)(A), the Secretary of the
5 Air Force may construct or acquire family housing units
6 (including land acquisition and supporting facilities) at the
7 installations or locations, for the purposes, and in the
8 amounts set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Arizona	Davis-Monthan Air Force Base	250 Units	\$48,500,000
California	Edwards Air Force Base ... Vandenberg Air Force Base.	218 Units 120 Units	\$41,202,000 \$30,906,000
Florida	MacDill Air Force Base ... MacDill Air Force Base ...	61 Units Housing Maintenance Fa- cility.	\$21,723,000 \$1,250,000
Idaho	Mountain Home Air Force Base	147 Units	\$39,333,000
Mississippi	Columbus Air Force Base	Family Housing Manage- ment Fa- cility.	\$711,000
Missouri	Whiteman Air Force Base	160 Units	\$37,087,000
Montana	Malmstrom Air Force Base	115 Units	\$29,910,000
North Carolina	Seymour Johnson Air Force Base	167 Units	\$32,693,000
North Dakota	Grand Forks Air Force Base	90 Units	\$26,169,000
South Carolina	Minot Air Force Base	142 Units	\$37,087,000
South Dakota	Charleston Air Force Base	Fire Station	\$1,976,000
Texas	Ellsworth Air Force Base	75 Units	\$21,482,000
	Dyess Air Force Base	127 Units	\$28,664,000
	Goodfellow Air Force Base	127 Units	\$20,604,000
Germany	Ramstein Air Base	144 Units	\$57,691,000
Italy	Aviano Air Base	Family Housing Office.	\$2,542,000
Korea	Osan Air Base	117 Units	\$46,834,000

Air Force: Family Housing—Continued

State	Installation or location	Purpose	Amount
United Kingdom	Royal Air Force, Lakenheath.	154 Units	\$43,976,000
		Total	\$570,340,000

1 (b) **PLANNING AND DESIGN.**—Using amounts appro-
2 priated pursuant to the authorization of appropriations in
3 section 2304(6)(A), the Secretary of the Air Force may
4 carry out architectural and engineering services and con-
5 struction design activities with respect to the construction
6 or improvement of military family housing units in an
7 amount not to exceed \$38,266,000.

8 **SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING**
9 **UNITS.**

10 Subject to section 2825 of title 10, United States
11 Code, and using amounts appropriated pursuant to the
12 authorization of appropriations in section 2304(6)(A), the
13 Secretary of the Air Force may improve existing military
14 family housing units in an amount not to exceed
15 \$238,353,000.

16 **SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR**
17 **FORCE.**

18 (a) **AUTHORIZATION OF APPROPRIATION.**—Funds
19 are hereby authorized to be appropriated for fiscal years
20 beginning after September 30, 2004, for military con-
21 struction, land acquisition, and military family housing

1 functions of the Department of the Air Force in the total
2 amount of \$2,485,542,000, as follows:

3 (1) For military construction projects inside the
4 United States authorized by section 2301(a),
5 \$452,023,000.

6 (2) For military construction projects outside
7 the United States authorized by section 2301(b),
8 \$138,446,000.

9 (3) For military construction projects at un-
10 specified worldwide locations authorized by section
11 2301(c), \$54,915,000.

12 (4) For unspecified minor construction projects
13 authorized by section 2805 of title 10, United States
14 Code, \$13,000,000.

15 (5) For architectural and engineering services
16 and construction design under section 2807 of title
17 10, United States Code, \$124,085,000.

18 (6) For military housing functions:

19 (A) For construction and acquisition, plan-
20 ning and design, and improvement of military
21 family housing and facilities, \$846,959,000.

22 (B) For support of military family housing
23 (including functions described in section 2833
24 of title 10, United States Code), \$856,114,000.

1 (b) OFFSET FOR CERTAIN MILITARY CONSTRUCTION
 2 PROJECT.—The amount authorized to be appropriated by
 3 section 421 for military personnel is hereby reduced by
 4 \$5,500,000, with the amount of the reduction to be de-
 5 rived from excess amounts authorized for military per-
 6 sonnel of the Air Force.

7 **TITLE XXIV—DEFENSE**
 8 **AGENCIES**

9 **SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUC-**
 10 **TION AND LAND ACQUISITION PROJECTS.**

11 (a) INSIDE THE UNITED STATES.—Using amounts
 12 appropriated pursuant to the authorization of appropria-
 13 tions in section 2404(a)(1), the Secretary of Defense may
 14 acquire real property and carry out military construction
 15 projects for the installations and locations inside the
 16 United States, and in the amounts, set forth in the fol-
 17 lowing table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Intelligence Agency	Bolling Air Force Base, District of Columbia	\$6,000,000
Defense Logistics Agency	Defense Distribution Depot, New Cumberland, Pennsylvania	\$22,300,000
	Defense Distribution Depot, Richmond, Virginia	\$10,100,000
	Defense Fuel Support Point, Naval Air Station Oceana, Virginia	\$3,589,000
	Marine Corps Air Station, Cherry Point, North Carolina	\$22,700,000
	Naval Air Station, Kingsville, Texas	\$3,900,000
	Naval Station, Pearl Harbor, Hawaii	\$3,500,000
	Tinker Air Force Base, Oklahoma ...	\$5,400,000
	Travis Air Force Base, California	\$15,100,000
Missile Defense Agency	Huntsville, Alabama	\$19,560,000
National Security Agency	Fort Meade, Maryland	\$15,007,000
Special Operations Command	Corona, California	\$13,600,000

Defense Agencies: Inside the United States—Continued

Agency	Installation or location	Amount
Tri-Care Management Activity	Fleet Combat Training Center, Dam Neck, Virginia	\$5,700,000
	Fort A.P. Hill, Virginia	\$1,500,000
	Fort Bragg, North Carolina	\$42,888,000
	Fort Campbell, Kentucky	\$3,500,000
	Fort Stewart/Hunter Army Air Field, Georgia	\$17,600,000
	Naval Air Station, North Island, California	\$1,000,000
	Naval Amphibious Base, Little Creek, Virginia	\$33,200,000
	Stennis Center, Mississippi	\$6,000,000
	Buckley Air Force Base, Colorado ...	\$2,100,000
	Fort Belvoir, Virginia	\$100,000,000
	Fort Benning, Georgia	\$7,100,000
	Jacksonville, Florida	\$28,438,000
	Langley Air Force Base, Virginia	\$50,800,000
	Marine Corps Recruit Depot, Parris Island, South Carolina	\$25,000,000
Total	\$465,582,000	

1 (b) OUTSIDE THE UNITED STATES.—Using amounts
2 appropriated pursuant to the authorization of appropria-
3 tions in section 2404(a)(2), the Secretary of Defense may
4 acquire real property and carry out military construction
5 projects for the installations and locations outside the
6 United States, and in the amounts, set forth in the fol-
7 lowing table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Education Agency ...	Grafenwoehr, Germany	\$36,247,000
	Vilseck, Germany	\$9,011,000
	Naval Station, Guam	\$26,964,000
Defense Logistics Agency	Defense Fuel Support Point, Lajes Field, Portugal.	\$19,113,000
Special Operations Command	Naval Station, Guam, Marianas Islands.	\$2,200,000
Tri-Care Management Activity	Diego Garcia	\$3,800,000
	Grafenwoehr, Germany	\$13,000,000
Total		\$110,335,000

8 (c) UNSPECIFIED WORLDWIDE.—Using the amounts
9 appropriated pursuant to the authorization of appropria-

1 tions in section 2404(a)(3), the Secretary of Defense may
 2 acquire real property and carry out military construction
 3 projects for the installations and locations, and in the
 4 amounts, set forth in the following table:

Defense Agencies: Unspecified Worldwide

Location	Installation or location	Amount
Worldwide Classified	Worldwide Unspecified Classified	\$7,400,000
Worldwide Unspecified	Worldwide Unspecified	\$2,900,000
	Total	\$10,300,000

5 **SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING**
 6 **UNITS.**

7 Subject to section 2825 of title 10, United States
 8 Code, and using amounts appropriated pursuant to the
 9 authorization of appropriations in section 2404(a)(9)(A),
 10 the Secretary of Defense may improve existing military
 11 family housing units in an amount not to exceed \$49,000.

12 **SEC. 2403. ENERGY CONSERVATION PROJECTS.**

13 Using amounts appropriated pursuant to the author-
 14 ization of appropriations in section 2404(a)(7), the Sec-
 15 retary of Defense may carry out energy conservation
 16 projects under section 2865 of title 10, United States
 17 Code, in the amount of \$60,000,000.

18 **SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DE-**
 19 **FENSE AGENCIES.**

20 (a) IN GENERAL.—Funds are hereby authorized to
 21 be appropriated for fiscal years beginning after September
 22 30, 2004, for military construction, land acquisition, and

1 military family housing functions of the Department of
2 Defense (other than the military departments) in the total
3 amount of \$1,062,463,000, as follows:

4 (1) For military construction projects inside the
5 United States authorized by section 2401(a),
6 \$408,582,000.

7 (2) For military construction projects outside
8 the United States authorized by section 2401(b),
9 \$110,335,000.

10 (3) For the military construction projects at
11 unspecified worldwide locations authorized by section
12 2401(c), \$10,300,000.

13 (4) For unspecified minor military construction
14 projects under section 2805 of title 10, United
15 States Code, \$20,938,000.

16 (5) For contingency construction projects of the
17 Secretary of Defense under section 2804 of title 10,
18 United States Code, \$10,000,000.

19 (6) For architectural and engineering services
20 and construction design under section 2807 of title
21 10, United States Code, \$62,182,000.

22 (7) For energy conservation projects authorized
23 by section 2404, \$60,000,000.

24 (8) For base closure and realignment activities
25 as authorized by the Defense Base Closure and Re-

1 alignment Act of 1990 (part A of title XXIX of
2 Public Law 101–510; 10 U.S.C. 2687 note),
3 \$246,116,000.

4 (9) For military family housing functions:

5 (A) For improvement of military family
6 housing and facilities, \$49,000.

7 (B) For support of military family housing
8 (including functions described in section 2833
9 of title 10, United States Code), \$49,575,000.

10 (C) For credit to the Department of De-
11 fense Family Housing Improvement Fund es-
12 tablished by section 2883(a)(1) of title 10,
13 United States Code, \$2,500,000.

14 (10) For the construction of phase 6 of a muni-
15 tions demilitarization facility at Pueblo Chemical Ac-
16 tivity, Colorado, authorized by section 2401(a) of the
17 Military Construction Authorization Act for Fiscal
18 Year 1997 (division B of Public Law 104–201; 110
19 Stat. 2775), as amended by section 2406 of the Mili-
20 tary Construction Authorization Act for Fiscal Year
21 2000 (division B of Public Law 106–65; 113 Stat.
22 839) and section 2407 of the Military Construction
23 Authorization Act for Fiscal Year 2003 (division B
24 of Public Law 107–314; 116 Stat. 2698),
25 \$44,792,000.

1 (11) For the construction of phase 5 of a muni-
2 tions demilitarization facility at Blue Grass Army
3 Depot, Kentucky, authorized by section 2401(a) of
4 the Military Construction Authorization Act for Fis-
5 cal Year 2000 (division B of Public Law 106–65;
6 113 Stat. 835), as amended by section 2405 of the
7 Military Construction Authorization Act of 2002 (di-
8 vision B of Public Law 107–107; 115 Stat. 1298)
9 and section 2405 of the Military Construction Au-
10 thorization Act for Fiscal Year 2003 (division B of
11 Public Law 107–314; 116 Stat. 2698), \$37,094,000.

12 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION
13 PROJECTS.—Notwithstanding the cost variations author-
14 ized by section 2853 of title 10, United States Code, and
15 any other cost variation authorized by law, the total cost
16 of all projects carried out under section 2401 of this Act
17 may not exceed—

18 (1) the total amount authorized to be appro-
19 priated under paragraphs (1), (2), and (3) of sub-
20 section (a); and

21 (2) \$57,000,000 (the balance of the amount au-
22 thorized under section 2401(a) for the replacement
23 of a hospital at Fort Belvoir, Virginia).

1 **TITLE XXV—NORTH ATLANTIC**
2 **TREATY ORGANIZATION SE-**
3 **CURITY INVESTMENT PRO-**
4 **GRAM**

5 **SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND**
6 **ACQUISITION PROJECTS.**

7 The Secretary of Defense may make contributions for
8 the North Atlantic Treaty Organization Security Invest-
9 ment program as provided in section 2806 of title 10,
10 United States Code, in an amount not to exceed the sum
11 of the amount authorized to be appropriated for this pur-
12 pose in section 2502 and the amount collected from the
13 North Atlantic Treaty Organization as a result of con-
14 struction previously financed by the United States.

15 **SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

16 Funds are hereby authorized to be appropriated for
17 fiscal years beginning after September 30, 2004, for con-
18 tributions by the Secretary of Defense under section 2806
19 of title 10, United States Code, for the share of the United
20 States of the cost of projects for the North Atlantic Treaty
21 Organization Security Investment program authorized by
22 section 2501, in the amount of \$165,800,000.

1 **TITLE XXVI—GUARD AND**
2 **RESERVE FORCES FACILITIES**

3 **SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUC-**
4 **TION AND LAND ACQUISITION PROJECTS.**

5 There are authorized to be appropriated for fiscal
6 years beginning after September 30, 2004, for the costs
7 of acquisition, architectural and engineering services, and
8 construction of facilities for the Guard and Reserve
9 Forces, and for contributions therefor, under chapter
10 1803 of title 10, United States Code (including the cost
11 of acquisition of land for those facilities), the following
12 amounts:

13 (1) For the Department of the Army—

14 (A) for the Army National Guard of the
15 United States, \$361,072,000; and

16 (B) for the Army Reserve, \$63,047,000.

17 (2) For the Department of the Navy, for the
18 Naval and Marine Corps Reserve, \$25,285,000.

19 (3) For the Department of the Air Force—

20 (A) for the Air National Guard of the
21 United States, \$214,418,000; and

22 (B) for the Air Force Reserve,
23 \$99,206,000.

1 **TITLE XXVII—EXPIRATION AND**
2 **EXTENSION OF AUTHORIZA-**
3 **TIONS**

4 **SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND**
5 **AMOUNTS REQUIRED TO BE SPECIFIED BY**
6 **LAW.**

7 (a) EXPIRATION OF AUTHORIZATIONS AFTER THREE
8 YEARS.—Except as provided in subsection (b), all author-
9 izations contained in titles XXI through XXVI for military
10 construction projects, land acquisition, family housing
11 projects and facilities, and contributions to the North At-
12 lantic Treaty Organization Security Investment program
13 (and authorizations of appropriations therefor) shall ex-
14 pire on the later of—

15 (1) October 1, 2007; or

16 (2) the date of the enactment of an Act author-
17 izing funds for military construction for fiscal year
18 2008.

19 (b) EXCEPTION.—Subsection (a) shall not apply to
20 authorizations for military construction projects, land ac-
21 quisition, family housing projects and facilities, and con-
22 tributions to the North Atlantic Treaty Organization Se-
23 curity Investment program (and authorizations of appro-
24 priations therefor) for which appropriated funds have been
25 obligated before the later of—

1 (1) October 1, 2007; or

2 (2) the date of the enactment of an Act author-
 3 izing funds for fiscal year 2008 for military con-
 4 struction projects, land acquisition, family housing
 5 projects and facilities, and contributions to the
 6 North Atlantic Treaty Organization Security Invest-
 7 ment program.

8 **SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN**
 9 **FISCAL YEAR 2002 PROJECTS.**

10 (a) **EXTENSION OF CERTAIN PROJECTS.**—Notwith-
 11 standing section 2701 of the National Defense Authoriza-
 12 tion Act for Fiscal Year 2001 (division B of Public Law
 13 107–107; 115 Stat. 1301), authorizations set forth in the
 14 tables in subsection (b), as provided in section 2101 or
 15 2302 of that Act, shall remain in effect until October 1,
 16 2005, or the date of the enactment of an Act authorizing
 17 funds for military construction for fiscal year 2006, which-
 18 ever is later.

19 (b) **TABLES.**—The tables referred to in subsection (a)
 20 are as follows:

Army: Extension of 2002 Project Authorizations

State	Installation or loca- tion	Project	Amount
Alaska	Fort Wainwright	Power Plant Cooling Tower	\$23,000,000
Hawaii	Pohakuloa Training Area	Parker Ranch Land Acqui- sition	\$1,500,000

Air Force: Extension of 2002 Project Authorizations

State	Installation or location	Project	Amount
Colorado	Buckley Air Force Base	Construct Family Housing (55 Units) ...	\$11,400,000
Louisiana	Barksdale Air Force Base	Replace Family Housing (56 Units)	\$7,300,000

1 **SEC. 2703. EXTENSION OF AUTHORIZATION OF CERTAIN**
2 **FISCAL YEAR 2001 PROJECT.**

3 (a) EXTENSION.—Notwithstanding section 2701 of
4 the Military Construction Authorization Act for Fiscal
5 Year 2001 (division B of the Floyd D. Spence National
6 Defense Authorization Act for Fiscal Year 2001 (as en-
7 acted into law by Public Law 106–398; 114 Stat. 1654A–
8 407)), authorizations set forth in the table in subsection
9 (b), as provided in section 2102 of that Act and extended
10 by section 2702 of the Military Construction Authoriza-
11 tion Act for Fiscal Year 2004 (division B of Public Law
12 108–136; 117 Stat. 1716), shall remain in effect until Oc-
13 tober 1, 2005, or the date of the enactment of an Act
14 authorizing funds for military construction for fiscal year
15 2006, whichever is later.

16 (b) TABLE.—The table referred to in subsection (a)
17 is as follows:

Army: Extension of 2001 Project Authorization

State	Installation or location	Project	Amount
South Carolina	Fort Jackson	New Construction—Family Housing (1 Unit)	\$250,000

1 **SEC. 2704. EFFECTIVE DATE.**

2 Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI
3 of this Act shall take effect on the later of—

4 (1) October 1, 2004; or

5 (2) the date of the enactment of this Act.

6 **TITLE XXVIII—GENERAL**
7 **PROVISIONS**

8 **Subtitle A—Military Construction**
9 **Program and Military Family**
10 **Housing Changes**

11 **SEC. 2801. INCREASE IN THRESHOLDS FOR UNSPECIFIED**
12 **MINOR MILITARY CONSTRUCTION PROJECTS.**

13 (a) INCREASE.—Section 2805(a)(1) of title 10,
14 United States Code, is amended—

15 (1) by striking “\$1,500,000” and inserting
16 “\$2,500,000”; and

17 (2) by striking “\$3,000,000” and inserting
18 “\$4,000,000”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall take effect on October 1, 2004.

1 **SEC. 2802. MODIFICATION OF APPROVAL AND NOTICE RE-**
2 **QUIREMENTS FOR FACILITY REPAIR**
3 **PROJECTS.**

4 (a) INCREASE IN THRESHOLD FOR APPROVAL RE-
5 QUIREMENT.—Subsection (b) of section 2811 of title 10,
6 United States Code, is amended by striking “\$5,000,000”
7 and inserting “\$7,500,000”.

8 (b) INFORMATION REQUIRED IN COST ESTIMATE
9 FOR MULTI-YEAR PROJECTS.—Subsection (d)(1) of such
10 section is amended by inserting before the semicolon the
11 following: “, including, in the case of a multi-year repair
12 project to a single facility, the total cost of all phases of
13 such project”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on October 1, 2004.

16 **SEC. 2803. ADDITIONAL REPORTING REQUIREMENTS RE-**
17 **LATING TO ALTERNATIVE AUTHORITY FOR**
18 **ACQUISITION AND IMPROVEMENT OF MILI-**
19 **TARY HOUSING.**

20 (a) PROJECT REPORTS.—Paragraph (2) of sub-
21 section (a) of section 2884 of title 10, United States Code,
22 is amended to read as follows:

23 “(2) The report on a proposed contract, conveyance,
24 or lease under paragraph (1) shall include the following:

1 “(A) A description of the contract, conveyance,
2 or lease, including a summary of the terms of the
3 contract, conveyance, or lease.

4 “(B) A description of the authorities to be uti-
5 lized in entering into the contract, conveyance, or
6 lease and the intended method of participation of the
7 United States in the contract, conveyance, or lease
8 (including a justification of the intended method of
9 participation).

10 “(C) A statement of the scored cost of the con-
11 tract, conveyance, or lease (as determined by the Of-
12 fice of Management and Budget).

13 “(D) A statement of the United States funds
14 required for the contract, conveyance, or lease and
15 a description of the source of such funds.

16 “(E) An economic assessment of the life cycle
17 costs of the contract, conveyance, or lease, including
18 an estimate of the amount of United States funds
19 that would be paid over the life of the contract, con-
20 veyance, or lease from amounts derived from pay-
21 ments of government allowances (including basic al-
22 lowance for housing under section 403 of title 37)
23 if the housing affected by the project were fully oc-
24 cupied by military personnel over the life of the con-
25 tract, conveyance, or lease.”.

1 (b) ANNUAL REPORTS.—Subsection (b) of such sec-
 2 tion is amended—

3 (1) by redesignating paragraph (5) as para-
 4 graph (6); and

5 (2) by inserting after paragraph (4) the fol-
 6 lowing new paragraph (5):

7 “(5) A report setting forth—

8 “(A) an estimate of the amounts of basic
 9 allowance for housing under section 403 of title
 10 37 that will be paid during the fiscal year in
 11 which the budget is submitted to members of
 12 the armed forces living in housing provided
 13 under the authorities in this subchapter during
 14 such fiscal year, set forth by armed force; and

15 “(B) an estimate of the amounts of basic
 16 allowance for housing that will be paid during
 17 the fiscal year for which the budget is sub-
 18 mitted to members of the armed forces living in
 19 such housing during such fiscal year, set forth
 20 by armed force.”.

21 **SEC. 2804. MODIFICATION OF AUTHORITIES UNDER ALTER-**
 22 **NATIVE AUTHORITY FOR ACQUISITION AND**
 23 **IMPROVEMENT OF MILITARY HOUSING.**

24 (a) REQUIREMENTS FOR CONTRACTS FOR LEASING
 25 OF HOUSING.—Section 2874 of title 10, United States

1 Code, is amended by striking subsection (b) and inserting
2 the following new subsection (b):

3 “(b) CONTRACT TERMS.—Any contract for the lease
4 of housing units under subsection (a) shall include the fol-
5 lowing provisions:

6 “(1) That the obligation of the United States to
7 make payments under such contract in any fiscal
8 year shall be subject to appropriations being avail-
9 able for such fiscal year and specifically for the
10 project covered by such contract.

11 “(2) A commitment to obligate the necessary
12 amount for a fiscal year covered by such contract
13 when and to the extent that funds are appropriated
14 for the project covered by such contract.

15 “(3) That the commitment described in para-
16 graph (2) does not constitute an obligation of the
17 United States.”.

18 (b) INVESTMENTS SUBJECT TO AVAILABILITY OF AP-
19 PROPRIATIONS.—Section 2875(a) of such title is amended
20 by inserting “, subject to the availability of appropriations
21 for such purpose,” after “may”.

22 (c) REPEAL OF CERTAIN AUTHORITIES.—

23 (1) RENTAL GUARANTEES.—Section 2876 of
24 such title is repealed.

1 (2) DIFFERENTIAL LEASE PAYMENTS.—Section
2 2877 of such title is repealed.

3 (3) ASSIGNMENT OF MEMBERS OF THE ARMED
4 FORCES TO HOUSING UNITS.—Section 2882 of such
5 title is repealed.

6 (d) INCREASE IN AMOUNT OF BUDGET AUTHORITY
7 FOR MILITARY FAMILY HOUSING.—Section 2883(g)(1) of
8 such title is amended by striking “\$850,000,000” and in-
9 serting “\$850,000,001”.

10 (e) CLERICAL AMENDMENTS.—The table of sections
11 at the beginning of subchapter IV of chapter 169 of such
12 title is amended by striking the items relating to sections
13 2876, 2877, and 2882.

14 **Subtitle B—Real Property and**
15 **Facilities Administration**

16 **SEC. 2811. RECODIFICATION AND CONSOLIDATION OF CER-**
17 **TAIN AUTHORITIES AND LIMITATIONS RE-**
18 **LATING TO REAL PROPERTY ADMINISTRA-**
19 **TION.**

20 (a) CERTAIN PROVISIONS ON LAND ACQUISITION.—

21 (1) RECODIFICATION.—Section 2661 of title
22 10, United States Code, is amended by adding at
23 the end the following new subsections:

24 “(c) COMMISSIONS ON LAND PURCHASE CON-
25 TRACTS.—The maximum amount payable as a commission

1 on a contract for the purchase of land from funds appro-
2 priated for the Department of Defense is 2 percent of the
3 purchase price.

4 “(d) AVAILABILITY OF FUNDS FOR ACQUISITION OF
5 CERTAIN INTERESTS IN LANDS.—Appropriations avail-
6 able to the Department of Defense for operation and
7 maintenance or construction may be used for the fol-
8 lowing:

9 “(1) The acquisition of land or interests in land
10 under section 2672 of this title.

11 “(2) The acquisition of interests in land under
12 section 2675 of this title.”.

13 (2) STYLISTIC AMENDMENTS.—Such section is
14 further amended—

15 (A) in subsection (a), by inserting “AVAIL-
16 ABILITY OF FUNDS FOR REPAIR OF FACILITIES
17 AND FOR INSTALLATION OF EQUIPMENT.—”
18 after “(a)”; and

19 (B) in subsection (b), by inserting
20 “LEASES; DEFENSE ACCESS ROADS.—” after
21 “(b)”.

22 (b) CERTAIN PROVISIONS ON USE OF FACILITIES.—
23 Section 2679 of such title is amended to read as follows:

1 **“§ 2679. Use of facilities: use by private organizations;**
2 **use as polling places**

3 “(a) USE OF SPACE AND EQUIPMENT BY VETERANS
4 SERVICE ORGANIZATIONS.—(1) Upon certification to the
5 Secretary concerned by the Secretary of Veterans Affairs,
6 the Secretary concerned shall allow accredited, paid, full-
7 time representatives of the organizations named in section
8 5902 of title 38, or of other organizations recognized by
9 the Secretary of Veterans Affairs, to function on military
10 installations under the jurisdiction of the Secretary con-
11 cerned that are on land and from which persons are dis-
12 charged or released from active duty.

13 “(2) The commanding officer of a military installa-
14 tion allowing representatives to function on the installa-
15 tion under paragraph (1) shall allow the representatives
16 to use available space and equipment at the installation.

17 “(3) The regulations prescribed to carry out section
18 2679 of title 10, United States Code (as in effect on the
19 day before the date of the enactment of the National De-
20 fense Authorization Act for Fiscal Year 2005), that are
21 in effect on January 1, 1958, shall remain in effect until
22 changed by joint action of the Secretary concerned and
23 the Secretary of Veterans Affairs.

24 “(4) This subsection does not authorize the violation
25 of measures of military security.

1 “(b) LICENSES TO AMERICAN NATIONAL RED CROSS
2 FOR ERECTION AND USE OF BUILDINGS.—(1) Under
3 such conditions as the Secretary concerned may prescribe,
4 such Secretary may issue a revocable license to the Amer-
5 ican National Red Cross to—

6 “(A) erect and maintain, on any military instal-
7 lation under the jurisdiction of such Secretary,
8 buildings for the storage of supplies; or

9 “(B) use, for the storage of supplies, buildings
10 erected by the United States.

11 “(2) Supplies stored in buildings erected or used
12 under this subsection are available to aid the civilian popu-
13 lation in a serious national disaster.

14 “(c) USE OF CERTAIN FACILITIES AS POLLING
15 PLACES.—(1) Notwithstanding chapter 29 of title 18 (in-
16 cluding sections 592 and 593 of such title) or any other
17 provision of law, the Secretary of Defense or Secretary
18 of a military department may not (except as provided in
19 paragraph (3)) prohibit the designation or use of a quali-
20 fying facility under the jurisdiction of such Secretary as
21 an official polling place for Federal, State, or local elec-
22 tions.

23 “(2) A Department of Defense facility is a qualifying
24 facility for purposes of this subsection if as of December
25 31, 2000—

1 “(A) the facility is designated as an official
2 polling place by a State or local election official; or

3 “(B) the facility has been used as such an offi-
4 cial polling place since January 1, 1996.

5 “(3) The limitation in paragraph (1) may be waived
6 by the Secretary of Defense or the Secretary of a military
7 department with respect to a particular Department of
8 Defense facility if such Secretary determines that local se-
9 curity conditions require prohibition of the designation or
10 use of that facility as an official polling place for any elec-
11 tion.”.

12 (c) REPEAL OF SUPERSEDED PROVISIONS.—Sections
13 2666, 2670, and 2673 of such title are repealed.

14 (d) CLERICAL AMENDMENTS.—The table of sections
15 for chapter 159 of such title is amended—

16 (1) by striking the items relating to sections
17 2666, 2670, and 2673; and

18 (2) by striking the item relating to section 2679
19 and inserting the following new item:

“Sec. 2679. Use of facilities: use by private organizations; use as polling
places.”.

20 **SEC. 2812. MODIFICATION AND ENHANCEMENT OF AU-**
21 **THORITIES ON FACILITIES FOR RESERVE**
22 **COMPONENTS.**

23 (a) INTERESTS IN LAND.—

1 (1) DEFINITION OF TERM.—Section 18232 of
2 title 10, United States Code, is amended—

3 (A) by striking paragraph (2);

4 (B) by redesignating paragraph (3) as
5 paragraph (4); and

6 (C) by inserting after paragraph (1) the
7 following new paragraphs:

8 “(2) The term ‘facility’ includes any armory,
9 readiness center, building, structure, or other im-
10 provement of real property needed for the adminis-
11 tration and training of any unit of the reserve com-
12 ponents of the armed forces.

13 “(3) The term ‘interest in land’ includes a fee
14 title, lease, easement, license, permit, or agreement
15 on use of a parcel of real property needed for the
16 administration and training of any unit of the re-
17 serve components of the armed forces.”.

18 (2) UTILIZATION OF TERM.—(A) Section
19 18231(1) of such title is amended by inserting be-
20 fore the semicolon the following: “, and the acquisi-
21 tion of interests in land for such purposes”.

22 (B) Section 18233 of such title is amended—

23 (i) in subsection (a), by inserting “or inter-
24 ests in land” after “facilities” each place it ap-
25 pears; and

1 (ii) in subsection (f)(2), by striking “real
2 property” and inserting “interests in land”.

3 (C) Section 18233a(a)(1) of such title is
4 amended by inserting “or interest in land” after “fa-
5 cility”.

6 (b) MODIFICATION AND ENHANCEMENT OF ACQUI-
7 TION AUTHORITY.—Section 18233 of such title is further
8 amended—

9 (1) in subsection (a)—

10 (A) in the matter preceding paragraph (1),
11 by striking “and to” and inserting “chapters
12 159 and 169 of this title, and”; and

13 (B) in paragraph (1), by striking “trans-
14 fer,” and inserting “transfer from a military
15 department, another department or agency of
16 the Federal Government, or a State agency,”;
17 and

18 (2) in subsection (f)(2), by striking “exchange
19 of Government-owned land, or otherwise” and insert-
20 ing “or exchange of Government-owned land”.

21 (c) AUTHORITY TO CARRY OUT SMALL PROJECTS.—

22 (1) MODIFICATION OF LIMITATION ON AUTHOR-
23 ITY.—Section 18233a(a) of such title is further
24 amended—

1 (A) in paragraph (1), by striking
2 “\$1,500,000” and inserting “\$750,000”; and

3 (B) in paragraph (2), by adding at the end
4 the following new subparagraph:

5 “(D) A repair project (as that term is defined
6 in section 2811(e) of this title) costing less than
7 \$10,000,000.”.

8 (2) RECODIFICATION OF AUTHORITY TO CARRY
9 OUT WITH OPERATION AND MAINTENANCE FUNDS.—
10 Chapter 1803 of title 10, United States Code, is
11 amended by inserting after section 18233a the fol-
12 lowing new section:

13 **“§ 18233b. Authority to carry out small projects with**
14 **operation and maintenance funds**

15 “Under such regulations as the Secretary of Defense
16 may prescribe, the Secretary may spend, from appropria-
17 tions available for operation and maintenance, amounts
18 necessary to carry out any project authorized under sec-
19 tion 18233(a) of this title costing not more than—

20 “(1) the amount specified in section
21 2805(c)(1)(A) of this title, in the case of a project
22 intended solely to correct a deficiency that is life-
23 threatening, health-threatening, or safety-threat-
24 ening; or

1 “(2) the amount specified in section
2 2805(e)(1)(B) of this title, in the case of any other
3 project.”.

4 (3) REPEAL OF SUPERSEDED AUTHORITY.—
5 Section 18233a of such title is amended by striking
6 subsection (b).

7 (4) CONFORMING AMENDMENTS.—Section
8 18233a of such title is further amended—

9 (A) by striking “(1) Except as provided in
10 paragraph (2)” and inserting “Except as pro-
11 vided in subsection (b)”;

12 (B) by redesignating paragraph (2) as sub-
13 section (b) and in that subsection, as so
14 redesignated—

15 (i) by striking “Paragraph (1)” and
16 inserting “Subsection (a)”;

17 (ii) by redesignating subparagraphs
18 (A), (B), (C), and (D) as paragraphs (1),
19 (2), (3), and (4), respectively; and

20 (iii) in paragraph (2), as so
21 redesignated—

22 (I) by redesignating clauses (i)
23 and (ii) as subparagraphs (A) and
24 (B), respectively; and

1 (II) in subparagraph (B), as so
 2 redesignated, by striking “(I) 25 per-
 3 cent, or (II)” and inserting “(i) 25
 4 percent, or (ii)”.

5 (5) CLERICAL AMENDMENTS.—(A) The heading
 6 of section 18233a of such title is amended to read
 7 as follows:

8 **“§ 18233a. Limitation on certain projects”.**

9 (B) The table of sections at the beginning of
 10 chapter 1803 of such title is amended by striking
 11 the item relating to section 18233a and inserting the
 12 following new items:

“18233a. Limitation on certain projects.

“18233b. Authority to carry out small projects with operation and maintenance funds.”.

13 **SEC. 2813. AUTHORITY TO EXCHANGE OR SELL RESERVE**
 14 **COMPONENT FACILITIES AND LANDS TO OB-**
 15 **TAIN NEW RESERVE COMPONENT FACILITIES**
 16 **AND LANDS.**

17 (a) IN GENERAL.—The Secretary of Defense may au-
 18 thorize each Secretary of a military department to carry
 19 out projects to assess the feasibility and advisability of ob-
 20 taining new facilities and lands for the reserve components
 21 of such department through the exchange or sale of exist-
 22 ing facilities or lands of such reserve components.

1 (b) TRANSACTIONS AUTHORIZED.—Pursuant to the
2 authority under subsection (a), the Secretary of a military
3 department may carry out any transaction as follows:

4 (1) An exchange of an existing facility or exist-
5 ing interest in land of a reserve component of such
6 department for a new facility, an interest in land, or
7 an addition to an existing facility for the reserve
8 component.

9 (2) A sale of an existing facility or existing in-
10 terest in land of a reserve component of such depart-
11 ment with the proceeds of sale used to acquire a new
12 facility, an interest in land, or an addition to an ex-
13 isting facility for the reserve component.

14 (3) A combination of an exchange and sale of
15 an existing facility, interest in land, or both of a re-
16 serve component of such department with the use of
17 the exchange allowance and proceeds of sale to ac-
18 quire a facility, an interest in land, or an addition
19 to an existing facility for the reserve component.

20 (c) FACILITIES AND LANDS SUBJECT TO TRANS-
21 ACTION.—A facility or interest in land of a reserve compo-
22 nent that may be exchanged or sold pursuant to the au-
23 thority under subsection (a) is any facility or interest in
24 land under the control of the military department con-

1 cerned that is not excess property, as that term is defined
2 in section 102(3) of title 40, United States Code.

3 (d) FAIR MARKET VALUE TO BE OBTAINED IN
4 TRANSACTION.—In any exchange or sale of an existing fa-
5 cility pursuant to the authority under subsection (a), the
6 United States shall receive cash, a replacement facility or
7 addition to an existing facility, an interest in land, or a
8 combination thereof of in an amount not less than the fair
9 market value of the existing facility, as determined by the
10 Secretary of the military department concerned.

11 (e) REQUIREMENTS FOR REPLACEMENT FACILI-
12 TIES.—(1) A facility obtained as a replacement facility for
13 an existing facility, or as an addition to an existing facil-
14 ity, pursuant to the authority under subsection (a) shall,
15 as determined by the Secretary of the military department
16 concerned—

17 (A) be complete and usable, fully functional,
18 and ready for occupancy, and satisfy fully all oper-
19 ational requirements of the existing facility; and

20 (B) meet all applicable Federal, State, and local
21 requirements relating to health, safety, fire, and the
22 environment.

23 (2) A facility obtained as a replacement facility for
24 an existing facility, or as an addition to an existing facil-
25 ity, pursuant to the authority under subsection (a) shall

1 meet the requirements specified in subparagraphs (A) and
2 (B) of paragraph (1) before the conclusion of the exchange
3 or sale of the existing facility concerned.

4 (f) AGREEMENT REQUIRED.—The Secretary of a
5 military department shall carry out each transaction pur-
6 suant to the authority under subsection (a) through an
7 agreement for that purpose entered into by such Secretary
8 and the person or entity carrying out the transaction.

9 (g) SELECTION AMONG COMPETING PARTICI-
10 PANTS.—(1) If more than one person or entity notifies the
11 Secretary of a military department of an interest in car-
12 rying out a transaction pursuant to the authority under
13 subsection (a), the Secretary shall, except as provided in
14 paragraph (2), select the person or entity to carry out the
15 transaction through the use of competitive procedures.

16 (2) The Secretary of a military department may use
17 procedures other than competitive procedures to select
18 among persons and entities to carry out a transaction pur-
19 suant to the authority under subsection (a), but only in
20 accordance with subsections (e) through (f) of section
21 2304 of title 10, United States Code.

22 (h) NOTICE AND WAIT REQUIREMENT.—(1) The
23 Secretary of a military department may not enter into an
24 agreement pursuant to the authority under subsection (a)
25 until 30 days after the date on which such Secretary sub-

1 mits to the congressional defense committees a report on
2 the agreement.

3 (2) A report on an agreement under paragraph (1)
4 shall include the following:

5 (A) A description of terms of the agreement, in-
6 cluding a description of any funds to be received by
7 the United States under the agreement and the pro-
8 posed use of such funds.

9 (B) A description of the existing facility, inter-
10 est in land, or both of a reserve component covered
11 by the agreement, including the fair market value of
12 such facility, interest in land, or both and the meth-
13 od of determination of such fair market value.

14 (C) Data on the facility or addition to an exist-
15 ing facility, if any, to be received by the United
16 States under the agreement, which data shall meet
17 requirements for data to be provided Congress for
18 military construction projects to obtain a similar fa-
19 cility or addition to an existing facility.

20 (D) A certification that the existing facility, in-
21 terest in land, or both of a reserve component cov-
22 ered by the agreement is not required by another
23 military department.

1 (3) Section 2662 of title 10, United States Code,
2 shall not apply to any transaction carried out pursuant
3 to the authority under subsection (a).

4 (i) TREATMENT OF FUNDS RECEIVED IN TRANS-
5 ACTIONS.—(1) The Secretary of a military department
6 shall deposit in a special account in the Treasury estab-
7 lished for such purpose pursuant to section 572(b) of title
8 40, United States Code, any amounts received pursuant
9 to an agreement entered into by such Secretary pursuant
10 to the authority under subsection (a).

11 (2) Amounts deposited by the Secretary of a military
12 department under paragraph (1) in the account estab-
13 lished by such Secretary under that paragraph with re-
14 spect to an agreement shall be available to such Secretary,
15 without further appropriation, as follows:

16 (A) For the construction or acquisition of facili-
17 ties, or of additions to existing facilities, for the re-
18 serve component concerned at the location to which
19 such agreement applies.

20 (B) To the extent that such amounts are not
21 required for purposes of subparagraph (A), for
22 maintenance, protection, alteration, repair, improve-
23 ment, or restoration (including environmental res-
24 toration) of facilities or property of the reserve com-

1 ponent concerned at the location to which such
2 agreement applies.

3 (3) Amounts available under paragraph (2) shall re-
4 main available until expended.

5 (j) SOLE AUTHORITY FOR EXCHANGES OF FACILI-
6 TIES AND LANDS.—Except as otherwise specifically au-
7 thorized by law, during the period of the authority under
8 subsection (a), the authority under that subsection to ex-
9 change facilities or interests in land of the reserve compo-
10 nents to obtain facilities, interests in land, or additions
11 to facilities for the reserve components is the sole author-
12 ity available in law for that purpose.

13 (k) CONSTRUCTION WITH OTHER MILITARY CON-
14 STRUCTION LAWS.—Transactions pursuant to the author-
15 ity under subsection (a) shall not be treated as military
16 construction projects requiring an authorization in law as
17 otherwise required by section 2802 of title 10, United
18 States Code.

19 (l) REPORT.—Not later than March 1, 2007, the Sec-
20 retary of Defense shall submit to the congressional defense
21 committees a report on the exercise of the authority under
22 subsection (a). The report shall include the following:

23 (1) A description of the projects carried out
24 under the authority.

1 (2) A description of the analysis and criteria
2 used to identify existing facilities and interests in
3 land to be exchanged or sold under the authority.

4 (3) An assessment of the utility to the Depart-
5 ment of Defense of the authority, including rec-
6 ommendations for modifications of such authority in
7 order to enhance the utility of such authority for the
8 Department.

9 (4) An assessment of interest in future ex-
10 changes or sales in the event the authority is ex-
11 tended.

12 (5) An assessment of the advisability of making
13 the authority, including any modifications of the au-
14 thority recommended under paragraph (3), perma-
15 nent.

16 (m) DEFINITIONS.—In this section:

17 (1) The term “facility” includes an armory,
18 readiness center, or other structure, and storage or
19 other facilities, normally needed for the administra-
20 tion and training of a unit of a reserve component.

21 (2) The terms “armory” and “readiness center”
22 have the meanings given such terms in section
23 18232(3) of title 10, United States Code.

1 (n) EXPIRATION DATE.—No transaction may be
2 commenced pursuant to the authority under subsection (a)
3 after September 30, 2006.

4 **SEC. 2814. REPEAL OF AUTHORITY OF SECRETARY OF DE-**
5 **FENSE TO RECOMMEND THAT INSTALLA-**
6 **TIONS BE PLACED IN INACTIVE STATUS DUR-**
7 **ING 2005 ROUND OF DEFENSE BASE CLOSURE**
8 **AND REALIGNMENT.**

9 Section 2914 of the Defense Base Closure and Re-
10 alignment Act of 1990 (part A of title XXIX of Public
11 Law 101–510; 10 U.S.C. 2687 note) is amended by strik-
12 ing subsection (c).

13 **Subtitle C—Land Conveyances**

14 **SEC. 2821. TRANSFER OF ADMINISTRATIVE JURISDICTION,**
15 **DEFENSE SUPPLY CENTER, COLUMBUS,**
16 **OHIO.**

17 (a) TRANSFER AUTHORIZED.—The Secretary of the
18 Army may transfer, without reimbursement, to the Sec-
19 retary of Veterans Affairs administrative jurisdiction of a
20 parcel of real property consisting of approximately 20
21 acres and comprising a portion of the Defense Supply
22 Center in Columbus, Ohio.

23 (b) USE OF PROPERTY.—The Secretary of Veterans
24 Affairs may only use the property transferred under sub-
25 section (a) as the site for the construction of a new out-

1 patient clinic for the provision of medical services to vet-
2 erans.

3 (c) COSTS.—Any administrative costs in connection
4 with the transfer of property under subsection (a), includ-
5 ing the costs of the survey required by subsection (e), shall
6 be borne by the Secretary of Veterans Affairs.

7 (d) RETURN OF JURISDICTION TO ARMY.—If at any
8 time the Secretary of the Army determines that the prop-
9 erty transferred under subsection (a) is not being utilized
10 for the outpatient clinic described in subsection (b), then,
11 at the election of the Secretary of the Army, the Secretary
12 of Veterans Affairs shall return to the Secretary of the
13 Army administrative jurisdiction of the property.

14 (e) EXEMPTION FROM FEDERAL SCREENING.—The
15 conveyance under subsection (a) is exempt from the re-
16 quirement to screen the property for other Federal use
17 pursuant to section 2693 of title 10, United States Code.

18 (f) DESCRIPTION OF PROPERTY.—The exact acreage
19 and legal description of the real property to be transferred
20 under subsection (a) shall be determined by a survey satis-
21 factory to the Secretary of the Army.

22 (g) ADDITIONAL TERMS AND CONDITIONS.—The
23 Secretary of the Army may require such additional terms
24 and conditions in connection with the transfer under sub-

1 section (a) as the Secretary considers appropriate to pro-
2 tect the interests of the United States.

3 **SEC. 2822. LAND CONVEYANCE, BROWNING ARMY RESERVE**
4 **CENTER, UTAH.**

5 (a) CONVEYANCE AUTHORIZED.—(1) The Secretary
6 of the Army may convey, without consideration, to the
7 State of Utah (in this section referred to as the “State”)
8 all right, title, and interest of the United States in and
9 to a parcel of unimproved real property consisting of ap-
10 proximately 10 acres and located at the Browning Army
11 Reserve Center, Utah.

12 (2) The purpose of the conveyance is to permit the
13 Department of Veterans Affairs of the State of Utah to
14 construct and operate a facility for the provision of nurs-
15 ing care for veterans.

16 (b) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
17 Secretary may require the State to cover costs to be in-
18 curred by the Secretary, or to reimburse the Secretary for
19 costs incurred by the Secretary, to carry out the convey-
20 ance under subsection (a), including survey costs, costs re-
21 lated to environmental documentation, and other adminis-
22 trative costs related to the conveyance. If amounts paid
23 to the Secretary in advance exceed the costs actually in-
24 curred by the Secretary to carry out the conveyance, the
25 Secretary shall refund the excess amount to the State.

1 (2) Amounts received under paragraph (1) shall be
2 credited to the fund or account that was used to cover
3 the costs incurred by the Secretary. Amounts so credited
4 shall be merged with amounts in such fund or account,
5 and shall be available for the same purposes, and subject
6 to the same conditions and limitations, as amounts in such
7 fund or account.

8 (c) DESCRIPTION OF PROPERTY.—The exact acreage
9 and legal description of the property to be conveyed under
10 subsection (a) shall be determined by a survey satisfactory
11 to the Secretary.

12 (d) ADDITIONAL TERMS AND CONDITIONS.—The
13 Secretary may require such additional terms and condi-
14 tions in connection with the conveyance under subsection
15 (a) as the Secretary considers appropriate to protect the
16 interests of the United States.

17 **SEC. 2823. LAND EXCHANGE, ARLINGTON COUNTY, VIR-**
18 **GINIA.**

19 (a) EXCHANGE AUTHORIZED.—(1) The Secretary of
20 Defense may convey to Arlington County, Virginia (in this
21 section referred to as the “County”), all right, title, and
22 interest of the United States in and to a parcel of real
23 property, together with any improvements thereon, con-
24 sisting of not more than 4.5 acres and located along the
25 western boundary of the Navy Annex property, Virginia,

1 for the purpose of the construction of a freedmen heritage
2 museum and an Arlington history museum.

3 (2) The size of the parcel of real property conveyed
4 under paragraph (1) shall be such that the acreage of the
5 parcel shall be equivalent to the acreage of the parcel of
6 real property conveyed under subsection (b). The Sec-
7 retary shall determine the acreage of the parcels, and such
8 determination shall be final.

9 (b) CONSIDERATION.—As consideration for the con-
10 veyance of property under subsection (a), the County shall
11 convey to the United States all right, title, and interest
12 of the County in and to a parcel of real property, together
13 with any improvements thereon, consisting of not more
14 than 4.5 acres and known as the Southgate Road right-
15 of-way between Arlington National Cemetery, Virginia,
16 and the Navy Annex property.

17 (c) DESCRIPTION OF PROPERTY.—The exact acreage
18 and legal description of the parcels of real property to be
19 conveyed under this section shall be determined by surveys
20 satisfactory to the Secretary.

21 (d) PAYMENT OF COSTS OF CONVEYANCES.—(1) The
22 Secretary may require the County to cover costs to be in-
23 curred by the Secretary, or to reimburse the Secretary for
24 costs incurred by the Secretary, to carry out the convey-
25 ances under subsections (a) and (b), including survey

1 costs, costs related to environmental documentation, and
2 other administrative costs related to the conveyances. If
3 amounts are collected from the County in advance of the
4 Secretary incurring the actual costs, and the amount col-
5 lected exceeds the costs actually incurred by the Secretary
6 to carry out the conveyance, the Secretary shall refund
7 the excess amount to the County.

8 (2) Amounts received as reimbursement under para-
9 graph (1) shall be credited to the fund or account that
10 was used to cover the costs incurred by the Secretary in
11 carrying out the conveyances. Amounts so credited shall
12 be merged with amounts in such fund or account, and
13 shall be available for the same purposes, and subject to
14 the same conditions and limitations, as amounts in such
15 fund or account.

16 (e) REVERSIONARY INTEREST.—(1) If at any time
17 the Secretary determines that the property conveyed to the
18 County under subsection (a) is not being used for the pur-
19 poses stated in that subsection, then, at the option of the
20 Secretary, all right, title, and interest in and to the prop-
21 erty, including any improvements thereon, shall revert to
22 the United States, and the United States shall have the
23 right of immediate entry onto the property.

24 (2) If the Secretary exercises the reversionary inter-
25 est provided for in paragraph (1), the Secretary shall pay

1 the County, from amounts available to the Secretary for
2 military construction for the Defense Agencies, an amount
3 equal to the fair market value of the property covered by
4 the reversionary interest, as determined by the Secretary.

5 (f) EXEMPTION FROM FEDERAL SCREENING.—The
6 conveyance under subsection (a) is exempt from the re-
7 quirement to screen the property for other Federal use
8 pursuant to sections 2693 and 2696 of title 10, United
9 States Code.

10 (g) INCLUSION OF SOUTHGATE ROAD RIGHT-OF-
11 WAY PROPERTY IN TRANSFER OF NAVY ANNEX PROP-
12 erty FOR ARLINGTON NATIONAL CEMETERY.—Sub-
13 section (a) of section 2881 of the Military Construction
14 Authorization Act for Fiscal Year 2000 (division B of
15 Public Law 106–65; 113 Stat. 879) is amended by strik-
16 ing “three parcels of real property consisting of approxi-
17 mately 36 acres” and inserting “four parcels of real prop-
18 erty consisting of approximately 40 acres”.

19 (h) TERMINATION OF RESERVATION OF CERTAIN
20 NAVY ANNEX PROPERTY FOR MEMORIALS OR MUSE-
21 UMS.—Subsection (b) of such section, as amended by sec-
22 tion 2863(f) of the Military Construction Authorization
23 Act for Fiscal Year 2002 (division B of Public Law 107–
24 107; 115 Stat. 1332) and section 2851(a)(1) of the Mili-
25 tary Construction Authorization Act for Fiscal Year 2003

1 (division B of Public Law 107–314; 116 Stat. 2726), is
2 further amended—

3 (1) by striking “(1) Subject to paragraph (2),
4 the Secretary” and inserting “The Secretary”; and
5 (2) by striking paragraph (2).

6 (i) **ADDITIONAL TERMS AND CONDITIONS.**—The Sec-
7 retary may require such additional terms and conditions
8 in connection with the conveyances under this section as
9 the Secretary considers appropriate to protect the inter-
10 ests of the United States.

11 **SEC. 2824. LAND CONVEYANCE, HAMPTON, VIRGINIA.**

12 (a) **CONVEYANCE AUTHORIZED.**—The Secretary of
13 the Army may convey, without consideration, to the
14 Hampton City School Board, Hampton, Virginia (in this
15 section referred to as the “Board”), all right, title, and
16 interest of the United States in and to a parcel of real
17 property, including any improvements thereon, that con-
18 sists of approximately 29.8 acres, is located on Downey
19 Farm Road in Hampton, Virginia, and is known as the
20 Butler Farm United States Army Reserve Center in order
21 to permit the Board to utilize the property for public edu-
22 cation purposes.

23 (b) **CONDITION OF CONVEYANCE.**—The conveyance
24 under subsection (a) shall be subject to the condition that
25 the Board accept the real property described in subsection

1 (a) in its condition at the time of the conveyance, com-
2 monly known as conveyance “as is”.

3 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
4 Secretary may require the Board to cover costs to be in-
5 curred by the Secretary, or to reimburse the Secretary for
6 costs incurred by the Secretary, to carry out the convey-
7 ance under subsection (a), including survey costs, costs re-
8 lated to environmental documentation, and other adminis-
9 trative costs related to the conveyance. If amounts are col-
10 lected from the Board in advance of the Secretary incur-
11 ring the actual costs, and the amount collected exceeds
12 the costs actually incurred by the Secretary to carry out
13 the conveyance, the Secretary shall refund the excess
14 amount to the Board.

15 (2) Amounts received as reimbursement under para-
16 graph (1) shall be credited to the fund or account that
17 was used to cover the costs incurred by the Secretary in
18 carrying out the conveyance. Amounts so credited shall be
19 merged with amounts in such fund or account, and shall
20 be available for the same purposes, and subject to the
21 same conditions and limitations, as amounts in such fund
22 or account.

23 (d) EXEMPTION FROM FEDERAL SCREENING.—The
24 conveyance authorized by subsection (a) is exempt from
25 the requirement to screen the property for other Federal

1 use pursuant to section 2693 and 2696 of title 10, United
2 States Code.

3 (e) DESCRIPTION OF PROPERTY.—The exact acreage
4 and legal description of the property to be conveyed under
5 subsection (a) shall be determined by a survey satisfactory
6 to the Secretary.

7 (f) ADDITIONAL TERMS AND CONDITIONS.—The Sec-
8 retary may require such additional terms and conditions
9 in connection with the conveyance under subsection (a) as
10 the Secretary considers appropriate to protect the inter-
11 ests of the United States.

12 **SEC. 2825. LAND CONVEYANCE, SEATTLE, WASHINGTON.**

13 (a) CONVEYANCE AUTHORIZED.—The Secretary of
14 the Army may convey, without consideration, to the State
15 of Washington (in this section referred to as the “State”)
16 all right, title, and interest of the United States in and
17 to a parcel of real property, including any improvements
18 thereon, consisting of approximately 9.747 acres in Se-
19 attle, Washington, and comprising a portion of the Na-
20 tional Guard Facility, Pier 91, for the purpose of permit-
21 ting the State to convey the facility unencumbered for eco-
22 nomic development purposes.

23 (b) CONDITION OF CONVEYANCE.—The conveyance
24 under subsection (a) shall be subject to the condition that
25 the State accept the real property in its condition at the

1 time of the conveyance, commonly known as conveyance
2 “as is”.

3 (c) ADMINISTRATIVE EXPENSES.—(1) The State
4 shall reimburse the Secretary for the administrative ex-
5 penses incurred by the Secretary in carrying out the con-
6 veyance under subsection (a), including expenses related
7 to surveys and legal descriptions, boundary
8 monumentation, environmental surveys, necessary docu-
9 mentation, travel, and deed preparation.

10 (2) Section 2695(c) of title 10, United States Code,
11 shall apply to any amounts received by the Secretary as
12 reimbursement under this subsection.

13 (d) DESCRIPTION OF PROPERTY.—The exact acreage
14 and legal description of the property to be conveyed under
15 subsection (a) shall be determined by a survey satisfactory
16 to the Secretary. The cost of the survey shall be borne
17 by the United States, subject to the requirement for reim-
18 bursement under subsection (c).

19 (e) ADDITIONAL TERMS AND CONDITIONS.—The
20 Secretary may require such additional terms and condi-
21 tions in connection with the conveyance under subsection
22 (a) as the Secretary considers appropriate to protect the
23 interests of the United States.

1 **SEC. 2826. TRANSFER OF JURISDICTION, NEBRASKA AVE-**
2 **NUE NAVAL COMPLEX, DISTRICT OF COLUM-**
3 **BIA.**

4 (a) **TRANSFER REQUIRED.**—The Secretary of the
5 Navy shall transfer to the administrative jurisdiction of
6 the Administrator of General Services the parcel of De-
7 partment of the Navy real property in the District of Co-
8 lumbia known as the Nebraska Avenue Complex for the
9 purpose of permitting the Administrator to use the Com-
10 plex to accommodate the Department of Homeland Secu-
11 rity. The Complex shall be transferred in its existing con-
12 dition.

13 (b) **AUTHORITY TO RETAIN MILITARY FAMILY**
14 **HOUSING.**—The Secretary of the Navy may retain admin-
15 istrative jurisdiction over the portion of the Complex that
16 the Secretary considers to be necessary for continued use
17 as Navy family housing.

18 (c) **TIME FOR TRANSFER.**—The transfer of adminis-
19 trative jurisdiction over the Complex to the Administrator
20 under subsection (c) shall be completed not later than
21 January 1, 2005.

22 (d) **RELOCATION OF NAVY ACTIVITIES.**—As part of
23 the transfer of the Complex under this section, the Sec-
24 retary of the Navy shall relocate Department of the Navy
25 activities at the Complex to other locations.

1 (e) PAYMENT OF RELOCATION COSTS.—Subject to
2 the availability of appropriations for this purpose, the Sec-
3 retary of Homeland Security shall be responsible for the
4 payment of—

5 (1) all reasonable costs, including costs to move
6 furnishings and equipment, related to the relocation
7 of Department of the Navy activities from the Com-
8 plex under subsection (d);

9 (2) all reasonable costs, including rent, incident
10 to the occupancy by such activities of interim leased
11 space; and

12 (3) all reasonable costs incident to the acquisi-
13 tion of permanent facilities for Department of the
14 Navy activities relocated from the Complex.

15 (f) SUBMISSION OF COST ESTIMATES.—As soon as
16 practicable after the date of the enactment of this Act,
17 but not later than January 1, 2005, the Secretary of the
18 Navy shall submit to the congressional defense committees
19 an initial estimate of the amounts that will be necessary
20 to cover the costs to permanently relocate Department of
21 the Navy activities from the Complex. The Secretary shall
22 include in the estimate anticipated land acquisition and
23 facility construction costs. The Secretary shall revise the
24 estimate as necessary whenever information regarding the
25 actual costs for the relocation is obtained.

1 (g) CERTIFICATION OF RELOCATION COSTS.—At the
2 end of the three-year period beginning on the date of the
3 transfer of the Complex under subsection (a), the Sec-
4 retary of the Navy shall submit to Congress written
5 notice—

6 (1) specifying the total amount expended under
7 subsection (e) to cover the costs of relocating De-
8 partment of the Navy activities from the Complex;

9 (2) specifying the total amount expended to ac-
10 quire permanent facilities for Department of the
11 Navy activities relocated from the Complex; and

12 (3) certifying whether the amounts paid are
13 sufficient to complete all relocation actions.

14 **SEC. 2827. LAND CONVEYANCE, HONOLULU, HAWAII.**

15 (a) CONVEYANCE AUTHORIZED.—The Secretary of
16 the Navy may convey, without consideration but subject
17 to the conditions specified in subsection (b), to the City
18 and County of Honolulu, Hawaii, all right, title, and inter-
19 est of the United States in and to a parcel of real property,
20 including improvements thereon, consisting of approxi-
21 mately 5.16 acres located at 890 Valkenberg Avenue,
22 Honolulu, Hawaii, and currently used by the City and
23 County of Honolulu as the site of a fire station and fire-
24 fighting training facility. The purpose of the conveyance
25 is to enhance the capability of the City and County of

1 Honolulu to provide fire protection and firefighting serv-
2 ices to the civilian and military properties in the area and
3 to provide a location for firefighting training for civilian
4 and military personnel.

5 (b) CONDITIONS OF CONVEYANCE.—The conveyance
6 under subsection (a) shall be subject to the following con-
7 ditions:

8 (1) That the City and County of Honolulu ac-
9 cept the real property in its condition at the time of
10 the conveyance, commonly known as conveyance “as
11 is”.

12 (2) That the City and County of Honolulu
13 make the firefighting training facility available to
14 the fire protection and firefighting units of the mili-
15 tary departments for training not less than 2 days
16 per week on terms satisfactory to the Secretary.

17 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
18 Secretary shall require the City and County of Honolulu
19 to cover costs to be incurred by the Secretary, or to reim-
20 burse the Secretary for costs incurred by the Secretary,
21 to carry out the conveyance under subsection (a), includ-
22 ing survey costs, costs related to environmental docu-
23 mentation, and other administrative costs related to the
24 conveyance. If amounts are collected from the City and
25 County of Honolulu in advance of the Secretary incurring

1 the actual costs, and the amount collected exceeds the
2 costs actually incurred by the Secretary to carry out the
3 conveyance, the Secretary shall refund the excess amount,
4 without interest, to the City and County of Honolulu.

5 (2) Amounts received under paragraph (1) shall be
6 credited to the fund or account that was used to cover
7 the costs incurred by the Secretary in carrying out the
8 conveyance. Amounts so credited shall be merged with
9 amounts in such fund or account, and shall be available
10 for the same purposes, and subject to the same conditions
11 and limitations, as amounts in such fund or account.

12 (d) DESCRIPTION OF PROPERTY.—The exact acreage
13 and legal description of the property to be conveyed under
14 subsection (a) shall be determined by a survey satisfactory
15 to the Secretary.

16 (e) ADDITIONAL TERMS AND CONDITIONS.—The
17 Secretary may require such additional terms and condi-
18 tions in connection with the conveyance under subsection
19 (a) as the Secretary considers appropriate to protect the
20 interests of the United States.

21 **SEC. 2828. LAND CONVEYANCE, PORTSMOUTH, VIRGINIA.**

22 (a) CONVEYANCE AUTHORIZED.—The Secretary of
23 the Navy may convey, without consideration, to the City
24 of Portsmouth, Virginia (in this section referred to as the
25 “City”), all right, title, and interest of the United States

1 in and to a parcel of real property, including any improve-
2 ments thereon, consisting of approximately 0.49 acres lo-
3 cated at 517 King Street, Portsmouth, Virginia, and
4 known as the “Navy YMCA Building”, for economic revi-
5 talization purposes.

6 (b) CONDITIONS OF CONVEYANCE.—The conveyance
7 under subsection (a) shall be subject to the following con-
8 ditions:

9 (1) That the City accept the real property de-
10 scribed in subsection (a) in its condition at the time
11 of the conveyance, commonly known as conveyance
12 “as is”.

13 (2) That the City bear all costs related to the
14 environmental remediation, use, and redevelopment
15 of the real property.

16 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
17 Secretary may require the City to cover costs to be in-
18 curred by the Secretary, or to reimburse the Secretary for
19 costs incurred by the Secretary, to carry out the convey-
20 ance under subsection (a), including survey costs, costs re-
21 lated to environmental documentation, and other adminis-
22 trative costs related to the conveyance. If amounts paid
23 to the Secretary in advance exceed the costs actually in-
24 curred by the Secretary to carry out the conveyance, the
25 Secretary shall refund the excess amount to the City.

1 (2) Amounts received under paragraph (1) shall be
2 credited to the fund or account that was used to cover
3 the costs incurred by the Secretary. Amounts so credited
4 shall be merged with amounts in such fund or account,
5 and shall be available for the same purposes, and subject
6 to the same conditions and limitations, as amounts in such
7 fund or account.

8 (d) DESCRIPTION OF PROPERTY.—The exact acreage
9 and legal description of the property to be conveyed under
10 subsection (a) shall be determined by a survey satisfactory
11 to the Secretary.

12 (e) ADDITIONAL TERMS AND CONDITIONS.—The
13 Secretary may require such additional terms and condi-
14 tions in connection with the conveyance under subsection
15 (a) as the Secretary considers appropriate to protect the
16 interests of the United States.

17 **SEC. 2829. LAND CONVEYANCE, FORMER GRIFFISS AIR**
18 **FORCE BASE, NEW YORK.**

19 (a) CONVEYANCE AUTHORIZED.—(1) The Secretary
20 of the Air Force may convey to the Oneida County Indus-
21 trial Development Agency, New York, the local reuse au-
22 thority for the former Griffiss Air Force Base (in this sec-
23 tion referred to as the “Authority”), all right, title and
24 interest of the United States in and to a parcel of real
25 property consisting of 9.639 acres and including four

1 buildings described in paragraph (2) that were vacated by
2 the Air Force in conjunction with its relocation to the Con-
3 solidated Intelligence and Reconnaissance Laboratory at
4 Air Force Research Laboratory—Rome Research Site,
5 Rome, New York.

6 (2) The buildings described in this paragraph are the
7 buildings located on the real property referred in para-
8 graph (1) as follows:

9 (A) Building 240 (117,323 square feet).

10 (B) Building 247 (13,199 square feet).

11 (C) Building 248 (4,000 square feet).

12 (D) Building 302 (20,577 square feet).

13 (3) The purpose of the conveyance under this sub-
14 section is to permit the Authority to develop the parcel
15 and structures conveyed for economic purposes in a man-
16 ner consistent with the Defense Base Closure and Realign-
17 ment Act of 1990 (part A of title XXIX of Public Law
18 101–510; 10 U.S.C. 2687 note).

19 (b) CONDITION OF CONVEYANCE.—The conveyance
20 under subsection (a) shall be subject to the condition that
21 the Authority accept the real property in its condition at
22 the time of the conveyance, commonly known as convey-
23 ance “as is”.

24 (c) CONSIDERATION.—As consideration for the con-
25 veyance of property under subsection (a), the Authority

1 shall pay the United States an amount equal to the fair
2 market of value, as determined by the Secretary.

3 (d) TREATMENT OF PROCEEDS.—Any consideration
4 received under subsection (c) shall be deposited in the De-
5 partment of Defense Base Closure Account 1990 estab-
6 lished by section 2906 of the Defense Base Closure and
7 Realignment Act of 1990, and shall be available for use
8 in accordance with subsection (b) of such section.

9 (e) DESCRIPTION OF PROPERTY.—The exact acreage
10 and legal description of the real property to be conveyed
11 under subsection (a) shall be determined by a survey satis-
12 factory to the Secretary. The cost of the survey shall be
13 borne by the Authority.

14 (f) ADDITIONAL TERMS AND CONDITIONS.—The Sec-
15 retary may require such additional terms and conditions
16 in connection with the conveyance under subsection (a) as
17 the Secretary considers appropriate to protect the inter-
18 ests of the United States.

19 **SEC. 2830. LAND EXCHANGE, MAXWELL AIR FORCE BASE,**
20 **ALABAMA.**

21 (a) CONVEYANCE AUTHORIZED.—The Secretary of
22 the Air Force may convey to the City of Montgomery, Ala-
23 bama (in this section referred to as the “City”), all right,
24 title, and interest of the United States in and to a parcel
25 of real property, including any improvements thereon, con-

1 sisting of approximately 28 acres and including all of the
2 Maxwell Heights Housing site and located at Maxwell Air
3 Force Base, Alabama.

4 (b) CONSIDERATION.—(1) As consideration for the
5 conveyance of property under subsection (a), the City shall
6 convey to the United States all right, title, and interest
7 of the City to a parcel of real property, including any im-
8 provements thereon, consisting of approximately 35 acres
9 and designated as project AL 6–4, that is owned by the
10 City and is contiguous to Maxwell Air Force Base, for the
11 purpose of allowing the Secretary to incorporate such
12 property into a project for the acquisition or improvement
13 of military housing under subchapter IV of chapter 169
14 of title 10, United States Code. The Secretary shall have
15 administrative jurisdiction over the real property received
16 under this subsection.

17 (2) If the fair market value of the real property re-
18 ceived under paragraph (1) is less than the fair market
19 value of the real property conveyed under subsection (a)
20 (as determined pursuant to an appraisal acceptable to the
21 Secretary), the Secretary may require the City to provide,
22 pursuant to negotiations between the Secretary and the
23 City, in-kind consideration the value of which when added
24 to the fair market value of the property conveyed under

1 subsection (b) equals the fair market value of the property
2 conveyed under subsection (a).

3 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
4 Secretary may require the City to cover costs to be in-
5 curred by the Secretary, or to reimburse the Secretary for
6 costs incurred by the Secretary, to carry out the convey-
7 ances under subsections (a) and (b), including survey
8 costs, costs related to environmental documentation, and
9 other administrative costs related to the conveyances. If
10 amounts are collected from the City in advance of the Sec-
11 retary incurring the actual costs, and the amount collected
12 exceeds the costs actually incurred by the Secretary to
13 carry out the conveyance, the Secretary shall refund the
14 excess amount to the City.

15 (2) Amounts received as reimbursement under para-
16 graph (1) shall be credited to the fund or account that
17 was used to cover the costs incurred by the Secretary in
18 carrying out the conveyances. Amounts so credited shall
19 be merged with amounts in such fund or account, and
20 shall be available for the same purposes, and subject to
21 the same conditions and limitations, as amounts in such
22 fund or account.

23 (d) DESCRIPTION OF PROPERTY.—The exact acreage
24 and legal description of the property to be conveyed under

1 subsections (a) and (b) shall be determined by surveys sat-
2 isfactory to the Secretary.

3 (e) **ADDITIONAL TERMS AND CONDITIONS.**—The
4 Secretary may require such additional terms and condi-
5 tions in connection with the conveyances under subsections
6 (a) and (b) as the Secretary considers appropriate to pro-
7 tect the interests of the United States.

8 **SEC. 2831. LAND EXCHANGE, NAVAL AIR STATION, PATUX-**
9 **ENT RIVER, MARYLAND.**

10 (a) **CONVEYANCE AUTHORIZED.**—The Secretary of
11 the Navy may convey to the State of Maryland (in this
12 section referred to as “State”), all right, title, and interest
13 of the United States in and to a parcel of real property,
14 including improvements thereon, consisting of approxi-
15 mately five acres at Naval Air Station, Patuxent River,
16 Maryland, and containing the Point Lookout Lighthouse,
17 other structures related to the lighthouse, and an archae-
18 ological site pertaining to the military hospital that was
19 located on the property during the Civil War. The convey-
20 ance shall include artifacts pertaining to the military hos-
21 pital recovered by the Navy and held at the installation.

22 (b) **PROPERTY RECEIVED IN EXCHANGE.**—As con-
23 sideration for the conveyance of the real property under
24 subsection (a), the State shall convey to the United States
25 a parcel of real property consisting of approximately five

1 acres located in Point Lookout State Park, St. Mary's
2 County, Maryland.

3 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
4 Secretary may require the State to cover costs to be in-
5 curred by the Secretary, or to reimburse the Secretary for
6 costs incurred by the Secretary, to carry out the convey-
7 ance under subsection (a), including survey costs, costs re-
8 lated to environmental documentation, relocation expenses
9 incurred under subsection (b), and other administrative
10 costs related to the conveyance. If amounts are collected
11 from the State in advance of the Secretary incurring the
12 actual costs, and the amount collected exceeds the costs
13 actually incurred by the Secretary to carry out the convey-
14 ance, the Secretary shall refund the excess amount to
15 State.

16 (2) Amounts received as reimbursement under para-
17 graph (1) shall be credited to the fund or account that
18 was used to cover the costs incurred by the Secretary in
19 carrying out the conveyance. Amounts so credited shall be
20 merged with amounts in such fund or account, and shall
21 be available for the same purposes, and subject to the
22 same conditions and limitations, as amounts in such fund
23 or account.

24 (d) DESCRIPTION OF PROPERTY.—The exact acreage
25 and legal description of the properties to be conveyed

1 under this section shall be determined by surveys satisfac-
2 tory to the Secretary.

3 (e) **ADDITIONAL TERMS AND CONDITIONS.**—The
4 Secretary may require such additional terms and condi-
5 tions in connection with the conveyances under this section
6 as the Secretary considers appropriate to protect the inter-
7 ests of the United States.

8 **SEC. 2832. LAND CONVEYANCE, MARCH AIR FORCE BASE,**
9 **CALIFORNIA.**

10 (a) **CONVEYANCE AUTHORIZED.**—The Secretary of
11 the Air Force may convey to the March Joint Powers Au-
12 thority (in this section referred to as the “MJPA”) all
13 right, title, and interest of the United States in and to
14 a parcel of real property, including any improvements
15 thereon, consisting of approximately 15 acres located in
16 Riverside County, California, and containing the former
17 Defense Reutilization and Marketing Office facility for
18 March Air Force Base, which is also known as Parcel A-
19 6, for the purpose of economic development and revitaliza-
20 tion.

21 (b) **CONSIDERATION.**—(1) As consideration for the
22 conveyance of property under subsection (a), the MJPA
23 shall pay the United States an amount equal to the fair
24 market value, as determined by the Secretary, of the prop-
25 erty to be conveyed under such subsection.

1 (2) The consideration received under this subsection
2 shall be deposited in the special account in the Treasury
3 established under section 572(b) of title 40, United States
4 Code, and available in accordance with the provisions of
5 paragraph (5)(B)(ii).

6 (c) DESCRIPTION OF PROPERTY.—The exact acreage
7 and legal description of the real property to be conveyed
8 under subsection (a) shall be determined by a survey satis-
9 factory to the Secretary. The cost of the survey shall be
10 borne by the MJPA.

11 (d) ADDITIONAL TERMS AND CONDITIONS.—The
12 Secretary may require such additional terms and condi-
13 tions in connection with the conveyance under subsection
14 (a) as the Secretary considers appropriate to protect the
15 interests of the United States.

16 **SEC. 2833. LAND CONVEYANCE, SUNFLOWER ARMY AMMU-**
17 **NITION PLANT, KANSAS.**

18 (a) CONVEYANCE AUTHORIZED.—The Secretary of
19 the Army, in consultation with the Administrator of Gen-
20 eral Services, may convey to an entity selected by the
21 Board of Commissioners of Johnson County, Kansas (in
22 this section referred to as the “entity” and the “Board”,
23 respectively), all right, title, and interest of the United
24 States in and to a parcel of real property, including any
25 improvements thereon, consisting of approximately 9,065

1 acres and containing the Sunflower Army Ammunition
2 Plant. The purpose of the conveyance is to facilitate the
3 re-use of the property for economic development and re-
4 talization.

5 (b) CONSIDERATION.—(1) As consideration for the
6 conveyance under subsection (a), the entity shall provide
7 the United States, whether by cash payment, in-kind con-
8 tribution, or a combination thereof, an amount that is not
9 less than the fair market value, as determined by an ap-
10 praisal of the property acceptable to the Administrator
11 and the Secretary. The Secretary may authorize the entity
12 to carry out, as in-kind consideration, environmental re-
13 mediation activities for the property conveyed under such
14 subsection.

15 (2) The Secretary shall deposit any cash received as
16 consideration under this subsection in a special account
17 established pursuant to section 572(b) of title 40, United
18 States Code, to pay for environmental remediation and ex-
19 plosives cleanup of the property conveyed under subsection
20 (a).

21 (c) CONSTRUCTION WITH PREVIOUS LAND CONVEY-
22 ANCE AUTHORITY ON SUNFLOWER ARMY AMMUNITION
23 PLANT.—The authority in subsection (a) to make the con-
24 veyance described in that subsection is in addition to the
25 authority under section 2823 of the Military Construction

1 Authorization Act for Fiscal Year 2003 (division B of
2 Public Law 107–314; 116 Stat. 2712) to make the convey-
3 ance described in that section.

4 (d) ENVIRONMENTAL REMEDIATION AND EXPLO-
5 SIVES CLEANUP.—(1) Notwithstanding any other provi-
6 sion of law, the Secretary may enter into a multi-year co-
7 operative agreement or contract with the entity to under-
8 take environmental remediation and explosives cleanup of
9 the property, and may utilize amounts authorized to be
10 appropriated for the Secretary for purposes of environ-
11 mental remediation and explosives cleanup under the
12 agreement.

13 (2) The terms of the cooperative agreement or con-
14 tract may provide for advance payments on an annual
15 basis or for payments on a performance basis. Payments
16 may be made over a period of time agreed to by the Sec-
17 retary and the entity or for such time as may be necessary
18 to perform the environmental remediation and explosives
19 cleanup of the property, including any long-term operation
20 and maintenance requirements.

21 (e) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
22 Secretary may require the entity or other persons to cover
23 costs to be incurred by the Secretary, or to reimburse the
24 Secretary for costs incurred by the Secretary, to carry out
25 the conveyance under subsection (a), including survey

1 costs, costs related to environmental, and other adminis-
2 trative costs related to the conveyance.

3 (2) Amounts received under paragraph (1) shall be
4 credited to the appropriation, fund, or account from which
5 the costs were paid. Amounts so credited shall be merged
6 with funds in such appropriation, fund, or account, and
7 shall be available for the same purposes, and subject to
8 the same limitations, as the funds with which merged.

9 (f) DESCRIPTION OF PROPERTY.—The exact acreage
10 and legal description of the real property to be conveyed
11 under subsection (a) shall be determined by a survey joint-
12 ly satisfactory to the Secretary and the Administrator.

13 (g) ADDITIONAL TERMS AND CONDITIONS.—The
14 Secretary and the Administrator may require such addi-
15 tional terms and conditions in connection with the convey-
16 ance of real property under subsection (a), and the envi-
17 ronmental remediation and explosives cleanup under sub-
18 section (d), as the Secretary and the Administrator jointly
19 consider appropriate to protect the interests of the United
20 States.

21 **SEC. 2834. LAND CONVEYANCE, NAVAL WEAPONS STATION,**
22 **CHARLESTON, SOUTH CAROLINA.**

23 (a) CONVEYANCE AUTHORIZED.—The Secretary of
24 the Navy may convey to the Berkeley County Sanitation
25 Authority, South Carolina (in this section referred to as

1 the “Authority”), all right, title, and interest of the United
2 States in and to a parcel of real property, including any
3 improvements thereon, consisting of not more than 38
4 acres and comprising a portion of the Naval Weapons Sta-
5 tion, Charleston, South Carolina, for the purpose of allow-
6 ing the Authority to expand an existing sewage treatment
7 plant.

8 (b) CONSIDERATION.—As consideration for the con-
9 veyance of property under subsection (a), the Authority
10 shall provide the United States, whether by cash payment,
11 in-kind services, or a combination thereof, an amount that
12 is not less than the fair market value, as determined by
13 an appraisal acceptable to the Secretary, of the property
14 conveyed under such subsection.

15 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
16 Secretary may require the Authority to cover costs in-
17 curred by the Secretary, or to reimburse the Secretary for
18 costs incurred by the Secretary, to carry out the convey-
19 ance under subsection (a), including appraisal costs, sur-
20 vey costs, costs related to compliance with the National
21 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
22 seq.) and environmental remediation, and other adminis-
23 trative costs related to the conveyance. If the amounts are
24 collected from the Authority in advance of the Secretary
25 incurring the actual costs, and the amount collected ex-

1 ceeds the costs actually incurred by the Secretary to carry
2 out the conveyance, the Secretary shall refund the excess
3 amount to the Authority.

4 (2) Amounts received as reimbursement under para-
5 graph (1) shall be credited to the fund or account that
6 was used to cover the costs incurred by the Secretary in
7 carrying out the conveyance. Amounts so credited shall be
8 merged with amounts in such fund or account, and shall
9 be made available for the same purposes, and subject to
10 the same conditions and limitations, as amounts in such
11 fund or account.

12 (d) DESCRIPTION OF PROPERTY.—The exact acreage
13 and legal description of the property to be conveyed under
14 subsection (a) shall be determined by a survey satisfactory
15 to the Secretary. The cost of the survey shall be borne
16 by the Authority.

17 (e) ADDITIONAL TERMS AND CONDITIONS.—The
18 Secretary may require such additional terms and condi-
19 tions in connection with the conveyance under subsection
20 (a) as the Secretary considers appropriate to protect the
21 interests of the United States.

22 **SEC. 2835. LAND CONVEYANCE, LOUISIANA ARMY AMMUNI-**
23 **TION PLANT, DOYLINE, LOUISIANA.**

24 (a) CONVEYANCE AUTHORIZED.—The Secretary of
25 the Army may convey to the State of Louisiana (in this

1 section referred to as the “State”) all right, title, and in-
2 terest of the United States in and to a parcel of real prop-
3 erty, including any improvements thereon, consisting of
4 approximately 14,949 acres located at the Louisiana Army
5 Ammunition Plant, Doyline, Louisiana.

6 (b) CONSIDERATION.—As consideration for the con-
7 veyance of property under subsection (a), the State shall—

8 (1) maintain at least 13,500 acres of such prop-
9 erty for the purpose of military training, unless the
10 Secretary determines that fewer acres are required
11 for such purpose;

12 (2) ensure that any other uses that are made
13 of the property conveyed under subsection (a) do not
14 adversely impact military training;

15 (3) accommodate the use of such property, at
16 no cost or fee, for meeting the present and future
17 training needs of Armed Forces units, including
18 units of the Louisiana National Guard and the other
19 active and reserve components of the Armed Forces;

20 (4) assume, starting on the date that is five
21 years after the date of the conveyance of such prop-
22 erty, responsibility for any monitoring, sampling, or
23 reporting requirements that are associated with the
24 environmental restoration activities of the Army on
25 the Louisiana Army Ammunition Plant, and shall

1 bear such responsibility until such time as such
2 monitoring, sampling, or reporting is no longer re-
3 quired; and

4 (5) assume the rights and responsibilities of the
5 Army under the armaments retooling manufacturing
6 support agreement between the Army and the facil-
7 ity use contractor with respect to the Louisiana
8 Army Ammunition Plant in accordance with the
9 terms of such agreement in effect at the time of the
10 conveyance.

11 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The
12 Secretary may require the State to cover costs to be in-
13 curred by the Secretary, or to reimburse the Secretary for
14 costs incurred by the Secretary, to carry out the convey-
15 ance under subsection (a), including survey costs, costs re-
16 lated to environmental documentation, and other adminis-
17 trative costs related to the conveyance. If amounts are col-
18 lected from the State in advance of the Secretary incurring
19 the actual costs, and the amount collected exceeds the
20 costs actually incurred by the Secretary to carry out the
21 conveyance, the Secretary shall refund the excess amount
22 to State.

23 (2) Amounts received as reimbursement under para-
24 graph (1) shall be credited to the fund or account that
25 was used to cover the costs incurred by the Secretary in

1 carrying out the conveyance. Amounts so credited shall be
2 merged with amounts in such fund or account, and shall
3 be available for the same purposes, and subject to the
4 same conditions and limitations, as amounts in such fund
5 or account.

6 (d) DESCRIPTION OF PROPERTY.—The exact acreage
7 and legal description of the real property to be conveyed
8 under subsection (a) shall be determined by surveys satis-
9 factory to the Secretary. The cost of each survey shall be
10 borne by the State.

11 (e) ADDITIONAL TERMS AND CONDITIONS.—The
12 Secretary may require such additional terms and condi-
13 tions in connection with the conveyance under subsection
14 (a) as the Secretary considers appropriate to protect the
15 interests of the United States.

16 **SEC. 2836. MODIFICATION OF AUTHORITY FOR LAND CON-**
17 **VEYANCE, EQUIPMENT AND STORAGE YARD,**
18 **CHARLESTON, SOUTH CAROLINA.**

19 Section 563(h) of the Water Resources Development
20 Act of 1999 (Public Law 106–53; 113 Stat. 360) is
21 amended to read as follows:

22 “(h) CHARLESTON, SOUTH CAROLINA.—

23 “(1) IN GENERAL.—The Secretary may convey
24 to the City of Charleston, South Carolina (in this
25 section referred to as the ‘City’), all right, title, and

1 interest of the United States in and to a parcel of
2 real property of the Corps of Engineers, together
3 with any improvements thereon, that is known as
4 the Equipment and Storage Yard and consists of ap-
5 proximately 1.06 acres located on Meeting Street in
6 Charleston, South Carolina, in as-is condition.

7 “(2) CONSIDERATION.—As consideration for
8 the conveyance of property under paragraph (1), the
9 City shall provide the United States, whether by
10 cash payment, in-kind contribution, or a combination
11 thereof, an amount that is not less than the fair
12 market value of the property conveyed, as deter-
13 mined by the Secretary.

14 “(3) USE OF PROCEEDS.—Amounts received as
15 consideration under this subsection may be used by
16 the Corps of Engineers, Charleston District, as fol-
17 lows:

18 “(A) Any amounts received as consider-
19 ation may be used to carry out activities under
20 this Act, notwithstanding any requirements as-
21 sociated with the Plant Replacement and Im-
22 provement Program (PRIP), including—

23 “(i) leasing, purchasing, or con-
24 structing an office facility within the

1 boundaries of Charleston, Berkeley, and
2 Dorchester Counties, South Carolina; and

3 “(ii) satisfying any PRIP balances.

4 “(B) Any amounts received as consider-
5 ation that are in excess of the fair market value
6 of the property conveyed under paragraph (1)
7 may be used for any authorized activities of the
8 Corps of Engineers, Charleston District.

9 “(4) DESCRIPTION OF PROPERTY.—The exact
10 acreage and legal description of the real property to
11 be conveyed under paragraph (1) and any property
12 transferred to the United States as consideration
13 under paragraph (2) shall be determined by surveys
14 satisfactory to the Secretary.

15 “(5) ADDITIONAL TERMS AND CONDITIONS.—
16 The Secretary may require such additional terms
17 and conditions in connection with the conveyance
18 under paragraph (1) as the Secretary considers ap-
19 propriate to protect the interests of the United
20 States.”.

1 **Subtitle D—Other Matters**

2 **SEC. 2841. DEPARTMENT OF DEFENSE FOLLOW-ON LAB-**
3 **ORATORY REVITALIZATION DEMONSTRATION**
4 **PROGRAM.**

5 (a) FOLLOW-ON PROGRAM AUTHORIZED.—(1) The
6 Secretary of Defense may carry out a program (to be
7 known as the “Department of Defense Follow-On Labora-
8 tory Revitalization Demonstration Program”) for the revi-
9 talization of Department of Defense laboratories. Under
10 the program, the Secretary may carry out minor military
11 construction projects in accordance with subsection (b)
12 and other applicable law to improve laboratories covered
13 by the program.

14 (2) The program under this section is the successor
15 program to the Department of Defense Laboratory Revi-
16 talization Demonstration Program carried out under sec-
17 tion 2892 of the Military Construction Authorization Act
18 for Fiscal Year 1996 (division B of Public Law 104–106;
19 10 U.S.C. 2805 note).

20 (b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO
21 MINOR CONSTRUCTION PROJECTS.—For purpose of any
22 military construction project carried out under the
23 program—

24 (1) the amount provided in the second sentence
25 of subsection (a)(1) of section 2805 of title 10,

1 United States Code, shall be deemed to be
2 \$3,000,000;

3 (2) the amount provided in subsection (b)(1) of
4 such section shall be deemed to be \$1,500,000; and

5 (3) the amount provided in subsection (c)(1)(B)
6 of such section shall be deemed to be \$1,000,000.

7 (c) PROGRAM REQUIREMENTS.—(1) Not later than
8 30 days before commencing the program, the Secretary
9 shall—

10 (A) designate the Department laboratories at
11 which construction may be carried out under the
12 program; and

13 (B) establish procedures for the review and ap-
14 proval of requests from Department laboratories to
15 carry out such construction.

16 (2) The laboratories designated under paragraph
17 (1)(A) may not include Department laboratories that are
18 contractor owned.

19 (3) The Secretary shall notify Congress of the De-
20 partment laboratories designated under paragraph (1)(A).

21 (d) REPORT.—Not later than September 30, 2005,
22 the Secretary shall submit to the congressional defense
23 committees a report on the program under this section.
24 The report shall include—

1 (1) a list and description of the construction
2 projects carried out under the program, and of any
3 projects carried out under the program referred to
4 in subsection (a) during the period beginning on Oc-
5 tober 1, 2003, and ending on the date of the enact-
6 ment of this Act, including the location and costs of
7 each such project; and

8 (2) the assessment of the Secretary of the ad-
9 visability of extending or expanding the authority for
10 the program under this section.

11 (e) CONSTRUCTION OF AUTHORITY.—Nothing in this
12 section may be construed to limit any other authority pro-
13 vided by law for any military construction project at a De-
14 partment laboratory covered by the program.

15 (f) DEFINITIONS.—In this section:

16 (1) The term “laboratory” includes—

17 (A) a research, engineering, and develop-
18 ment center;

19 (B) a test and evaluation activity owned,
20 funded, and operated by the Federal Govern-
21 ment through the Department of Defense; and

22 (C) a supporting facility of a laboratory.

23 (2) The term “supporting facility”, with respect
24 to a laboratory, means any building or structure

1 that is used in support of research, development,
2 test, and evaluation at the laboratory.

3 (g) EXPIRATION OF AUTHORITY.—The authority to
4 carry out a project under the program under this section
5 expires on September 30, 2006.

6 **SEC. 2842. JURISDICTION AND UTILIZATION OF FORMER**
7 **PUBLIC DOMAIN LANDS, UMATILLA CHEM-**
8 **ICAL DEPOT, OREGON.**

9 (a) JURISDICTION.—The various parcels of real prop-
10 erty consisting of approximately 8,300 acres and located
11 within the boundaries of Umatilla Chemical Depot, Or-
12 egon, that were previously withdrawn from the public do-
13 main are determined to be no longer suitable for return
14 to the public domain and are hereby transferred to the
15 administrative jurisdiction of the Secretary of the Army.

16 (b) UTILIZATION.—The Secretary shall combine the
17 real property transferred under subsection (a) with other
18 lands and lesser interests comprising the Umatilla Chem-
19 ical Depot for purposes of their management and disposal
20 pursuant to title II of the Defense Authorization Amend-
21 ments and Base Closure and Realignment Act of 1988
22 (Public Law 100–526; 10 U.S.C. 2687 note) and other
23 applicable law.

1 **SEC. 2843. DEVELOPMENT OF HERITAGE CENTER FOR THE**
2 **NATIONAL MUSEUM OF THE UNITED STATES**
3 **ARMY.**

4 (a) **AUTHORITY TO ENTER INTO AGREEMENT.**—(1)
5 The Secretary of the Army may enter into an agreement
6 with the Army Historical Foundation, a nonprofit organi-
7 zation, for the design, construction, and operation of a fa-
8 cility or group of facilities at Fort Belvoir, Virginia (in
9 this section referred to as the “center”), for the National
10 Museum of the United States Army.

11 (2) The center shall be used for the identification,
12 curation, storage, and public viewing of artifacts and art-
13 work of significance to the United States Army, as agreed
14 to by the Secretary.

15 (3) The center may also be used to support such edu-
16 cation, training, research, and associated purposes as the
17 Secretary considers appropriate.

18 (b) **DESIGN AND CONSTRUCTION.**—(1) The design of
19 the center shall be subject to the approval of the Sec-
20 retary.

21 (2) For each phase of the development of the center,
22 the Secretary may—

23 (A) accept funds from the Army Historical
24 Foundation for the design and construction of such
25 phase of the center; or

1 (B) permit the Army Historical Foundation to
2 contract for the design and construction of such
3 phase of the center.

4 (c) ACCEPTANCE OF FACILITY.—(1) Upon satisfac-
5 tory completion, as determined by the Secretary, of any
6 phase of the center, and upon the satisfaction of any and
7 all financial obligations incident thereto by the Army His-
8 torical Foundation, the Secretary shall accept such phase
9 of the center from the Army Historical Foundation, and
10 all right, title, and interest in and to such phase of the
11 center shall vest in the United States.

12 (2) Upon becoming property of the United States, a
13 phase of the center accepted under paragraph (1) shall
14 be under the jurisdiction of the Secretary.

15 (d) USE OF CERTAIN GIFTS.—(1) Under regulations
16 prescribed by the Secretary, the Commander of the United
17 States Army Center of Military History may, without re-
18 gard to section 2601 of title 10, United States Code, ac-
19 cept, hold, administer, invest, and spend any gift, devise,
20 or bequest of personal property of a value of \$250,000
21 or less made to the United States if such gift, devise, or
22 bequest is for the benefit of the National Museum of the
23 United States Army or the center.

24 (2) The Secretary may pay or authorize the payment
25 of any reasonable and necessary expense in connection

1 with the conveyance or transfer of a gift, devise, or be-
2 quest under this subsection.

3 (e) LEASE OF FACILITY.—(1) The Secretary may
4 lease, under such terms and conditions as the Secretary
5 considers appropriate for the agreement authorized by
6 subsection (a), portions of the center developed under that
7 subsection to the Army Historical Foundation for use by
8 the public, commercial and nonprofit entities, State and
9 local governments, and other departments and agencies of
10 the Federal Government for use in generating revenue for
11 activities of the center and for such administrative pur-
12 poses as may be necessary for the support of the center.

13 (2) The amount of consideration paid to the Sec-
14 retary by the Army Historical Foundation for a lease
15 under paragraph (1) may not exceed an amount equal to
16 the actual cost, as determined by the Secretary, of the op-
17 erations and maintenance of the center.

18 (3) Notwithstanding any other provision of law, the
19 Secretary shall use amounts paid under paragraph (2) to
20 cover the costs of operation of the center.

21 (f) ADDITIONAL TERMS AND CONDITIONS.—The Sec-
22 retary may require such additional terms and conditions
23 in connection with the agreement authorized by subsection
24 (a) as the Secretary considers appropriate to protect the
25 interests of the United States.

1 **SEC. 2844. AUTHORITY TO SETTLE CLAIM OF OAKLAND**
2 **BASE REUSE AUTHORITY AND REDEVELOP-**
3 **MENT AGENCY OF THE CITY OF OAKLAND,**
4 **CALIFORNIA.**

5 (a) **AUTHORITY.**—The Secretary of the Navy may
6 pay funds as agreed to by both parties, in the amount
7 of \$2,100,000, to the Oakland Base Reuse Authority and
8 Redevelopment Agency of the City of Oakland, California,
9 in settlement of Oakland Base Reuse Authority and Rede-
10 velopment Agency of the City of Oakland v. the United
11 States, Case No. C02–4652 MHP, United States District
12 Court, Northern District of California, including any ap-
13 peal.

14 (b) **CONSIDERATION.**—As consideration, the Oakland
15 Base Reuse Authority and Redevelopment Agency shall
16 agree that the payment constitutes a final settlement of
17 all claims against the United States related to said case
18 and give to the Secretary a release of all claims to the
19 eighteen officer housing units located at the former Naval
20 Medical Center Oakland, California. The release shall be
21 in a form that is satisfactory to the Secretary.

22 (c) **SOURCE OF FUNDS.**—The Secretary may use
23 funds in the Department of Defense Base Closure Account
24 1990 established pursuant to section 2906 of the Defense
25 Base Closure and Realignment Act of 1990 (part A of title
26 XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for

1 the payment authorized by subsection (a) or the proceeds
2 of sale from the eighteen housing units and property de-
3 scribed in subsection (b).

4 **SEC. 2845. COMPTROLLER GENERAL REPORT ON CLOSURE**
5 **OF DEPARTMENT OF DEFENSE DEPENDENT**
6 **ELEMENTARY AND SECONDARY SCHOOLS**
7 **AND COMMISSARY STORES.**

8 (a) COMPTROLLER GENERAL REPORT.—Not later
9 than 180 days after the date of the enactment of this Act,
10 the Comptroller General of the United States shall submit
11 to the appropriate committees of Congress a report that
12 includes the following:

13 (1) With respect to Department of Defense de-
14 pendent elementary and secondary schools—

15 (A) an assessment by the Comptroller Gen-
16 eral of the policy of the Department of Defense,
17 and the criteria utilized by the Department, re-
18 garding the closure of schools, including wheth-
19 er or not such policy and criteria are consistent
20 with Department policies and procedures on the
21 preservation of the quality of life of members of
22 the Armed Forces; and

23 (B) an assessment by the Comptroller
24 General of any current or on-going studies or

1 assessments of the Department with respect to
2 any of the schools.

3 (2) With respect to commissary stores—

4 (A) an assessment by the Comptroller Gen-
5 eral of the policy of the Department of Defense,
6 and the criteria utilized by the Department, re-
7 garding the closure of commissary stores, in-
8 cluding whether or not such policy and criteria
9 are consistent with Department policies and
10 procedures on the preservation of the quality of
11 life of members of the Armed Forces; and

12 (B) an assessment by the Comptroller
13 General of any current or on-going studies or
14 assessments of the Department with respect to
15 any of the commissary stores.

16 (b) APPROPRIATE COMMITTEES OF CONGRESS DE-
17 FINED.—In this section, the term “appropriate commit-
18 tees of Congress” means—

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

21 (2) the Committee on Armed Services of the
22 House of Representatives.

1 **TITLE XXIX—MARITIME**
2 **ADMINISTRATION**

3 **SEC. 2901. MODIFICATION OF PRIORITY AFFORDED APPLI-**
4 **CATIONS FOR NATIONAL DEFENSE TANK VES-**
5 **SEL CONSTRUCTION ASSISTANCE.**

6 Section 3542(d) of the Maritime Security Act of 2003
7 (title XXXV of Public Law 108–136; 117 Stat. 1821; 46
8 U.S.C. 53101 note) is amended—

9 (1) in paragraph (1), by striking “and” at the
10 end;

11 (2) by redesignating paragraph (2) as para-
12 graph (3); and

13 (3) by inserting after paragraph (1) the fol-
14 lowing new paragraph (2):

15 “(2) shall give priority consideration to a pro-
16 posal submitted by an applicant who has been ac-
17 cepted for participation in the Shipboard Technology
18 Evaluation Program as outlined in Navigation and
19 Vessel Inspection Circular 01–04, issued by the
20 Commandant of the United States Coast Guard on
21 January 2, 2004; and”.

1 **DIVISION C—DEPARTMENT OF**
2 **ENERGY NATIONAL SECURITY**
3 **AUTHORIZATIONS AND**
4 **OTHER AUTHORIZATIONS**
5 **TITLE XXXI—DEPARTMENT OF**
6 **ENERGY NATIONAL SECURITY**
7 **PROGRAMS**
8 **Subtitle A—National Security**
9 **Programs Authorizations**

10 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**
11 **TION.**

12 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds
13 are hereby authorized to be appropriated to the Depart-
14 ment of Energy for fiscal year 2005 for the activities of
15 the National Nuclear Security Administration in carrying
16 out programs necessary for national security in the
17 amount of \$9,165,145,000, to be allocated as follows:

18 (1) For weapons activities, \$6,674,898,000.

19 (2) For defense nuclear nonproliferation activi-
20 ties, \$1,348,647,000.

21 (3) For naval reactors, \$797,900,000.

22 (4) For the Office of the Administrator for Nu-
23 clear Security, \$343,700,000.

24 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—
25 From funds referred to in subsection (a) that are available

1 for carrying out plant projects, the Secretary of Energy
2 may carry out new plant projects for weapons activities,
3 as follows:

4 (1) For readiness in technical base and facili-
5 ties:

6 Project 05–D–140, Readiness in Technical
7 Base and Facilities Program (RTBF), project
8 engineering and design (PED), various loca-
9 tions, \$11,600,000.

10 Project 05–D–401, Building 12–64 pro-
11 duction bays upgrade, Pantex Plant, Amarillo,
12 Texas, \$25,000,000.

13 Project 05–D–402, Beryllium Capability
14 (BeC) Project, Y–12 National Security Com-
15 plex, Oak Ridge, Tennessee, \$3,627,000.

16 (2) For facilities and infrastructure recapital-
17 ization:

18 Project 05–D–160, Facilities and Infra-
19 structure Recapitalization Program (FIRP),
20 project engineering and design (PED), various
21 locations, \$8,700,000.

22 Project 05–D–601, compressed air up-
23 grades, Y–12 National Security Complex, Oak
24 Ridge, Tennessee, \$4,400,000.

1 Project 05–D–602, power grid infrastruc-
2 ture upgrade (PGIU), Los Alamos National
3 Laboratory, Los Alamos, New Mexico,
4 \$10,000,000.

5 Project 05–D–603, new master substation,
6 technical areas I and IV, Sandia National Lab-
7 oratories, Albuquerque, New Mexico, \$600,000.

8 (3) For safeguards and security:

9 Project 05–D–170, safeguards and secu-
10 rity, project engineering and design (PED),
11 various locations, \$17,000,000.

12 Project 05–D–701, security perimeter, Los
13 Alamos National Laboratory, Los Alamos, New
14 Mexico, \$20,000,000.

15 (4) For naval reactors:

16 Project 05–N–900, materials development
17 facility building, Schenectady, New York,
18 \$6,200,000.

19 **SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.**

20 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds
21 are hereby authorized to be appropriated to the Depart-
22 ment of Energy for fiscal year 2005 for environmental
23 management activities in carrying out programs necessary
24 for national security in the amount of \$6,954,402,000, to
25 be allocated as follows:

1 (1) For defense site acceleration completion,
2 \$5,971,932,000.

3 (2) For defense environmental services,
4 \$982,470,000.

5 (b) AUTHORIZATION OF NEW PLANT PROJECT.—
6 From funds referred to in subsection (a)(2) that are avail-
7 able for carrying out plant projects, the Secretary of En-
8 ergy may carry out, for environmental management activi-
9 ties, the following new plant project:

10 Project 05–D–405, salt waste processing facil-
11 ity, Savannah River Site, Aiken, South Carolina,
12 \$52,000,000.

13 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

14 Funds are hereby authorized to be appropriated to
15 the Department of Energy for fiscal year 2005 for other
16 defense activities in carrying out programs necessary for
17 national security in the amount of \$568,096,000.

18 **SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

19 Funds are hereby authorized to be appropriated to
20 the Department of Energy for fiscal year 2005 for defense
21 nuclear waste disposal for payment to the Nuclear Waste
22 Fund established in section 302(c) of the Nuclear Waste
23 Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount
24 of \$108,000,000.

1 **Subtitle B—Program Authoriza-**
2 **tions, Restrictions, and Limita-**
3 **tions**

4 **SEC. 3111. LIMITATION ON AVAILABILITY OF FUNDS FOR**
5 **MODERN PIT FACILITY.**

6 (a) **LIMITATION.**—Of the amount authorized to be
7 appropriated by section 3101(a)(1) for the National Nu-
8 clear Security Administration for weapons activities and
9 available for the Modern Pit Facility, not more than 50
10 percent of such amount may be obligated or expended
11 until 30 days after the latter of the following:

12 (1) The date of the submittal of the revised nu-
13 clear weapons stockpile plan specified in the joint ex-
14 planatory statement to accompany the report of the
15 Committee on Conference on the bill H.R. 2754 of
16 the 108th Congress.

17 (2) The date on which the Administrator for
18 Nuclear Security submits to the congressional de-
19 fense committees a report setting forth the validated
20 pit production requirements for the Modern Pit Fa-
21 cility.

22 (b) **VALIDATED PIT PRODUCTION REQUIREMENTS.**—

23 (1) The validated pit production requirements in the re-
24 port under subsection (a)(2) shall be established by the

1 Administrator in conjunction with the Chairman of the
2 Nuclear Weapons Council.

3 (2) The validated pit production requirements shall—

4 (A) include specifications regarding the number
5 of pits that will be required to be produced in order
6 to support the weapons that will be retained in the
7 nuclear weapons stockpile, set forth by weapon type
8 and by year; and

9 (B) take into account any surge capacity that
10 may be included in the annual pit production capa-
11 bility.

12 (c) FORM OF REPORT.—The report described in sub-
13 section (a)(2) shall be submitted in unclassified form, but
14 may include a classified annex.

15 **SEC. 3112. LIMITATION ON AVAILABILITY OF FUNDS FOR**
16 **ADVANCED NUCLEAR WEAPONS CONCEPTS**
17 **INITIATIVE.**

18 (a) LIMITATION.—None of the funds authorized to
19 be appropriated by this title may be obligated or expended
20 for purposes of additional or exploratory studies under the
21 Advanced Nuclear Weapons Concepts Initiative until 30
22 days after the date on which the Administrator for Nu-
23 clear Security submits to the congressional defense com-
24 mittees a detailed report on the activities for such studies
25 under the Initiative that are planned for fiscal year 2005.

1 (b) FORM OF REPORT.—The report under subsection
2 (a) shall be submitted in unclassified form, but may in-
3 clude a classified annex.

4 **SEC. 3113. LIMITED AUTHORITY TO CARRY OUT NEW**
5 **PROJECTS UNDER FACILITIES AND INFRA-**
6 **STRUCTURE RECAPITALIZATION PROGRAM**
7 **AFTER PROJECT SELECTION DEADLINE.**

8 (a) LIMITED AUTHORITY TO CARRY OUT NEW
9 PROJECTS.—Section 3114(a) of the National Defense Au-
10 thorization Act for Fiscal Year 2004 (Public Law 108–
11 136; 117 Stat. 1744; 50 U.S.C. 2453 note) is amended—

12 (1) in the subsection caption, by striking
13 “DEADLINE FOR”;

14 (2) in paragraph (2), by striking “No project”
15 and inserting “Except as provided in paragraph (3),
16 no project”; and

17 (3) by adding at the end the following new
18 paragraph:

19 “(3)(A) Subject to the provisions of this paragraph,
20 a project described in subparagraph (B) may be carried
21 out under the Facilities and Infrastructure Recapitaliza-
22 tion Program after December 31, 2004, if the Adminis-
23 trator approves the project. The Administrator may not
24 delegate the authority to approve projects under the pre-
25 ceding sentence.

1 “(B) A project described in this subparagraph is a
2 project that consists of a specific building, facility, or
3 other improvement (including fences, roads, or similar im-
4 provements).

5 “(C) Funds may not be obligated or expended for a
6 project under this paragraph until 60 days after the date
7 on which the Administrator submits to the congressional
8 defense committees a notice on the project, including a
9 description of the project and the nature of the project,
10 a statement explaining why the project was not included
11 in the Facilities and Infrastructure Recapitalization Pro-
12 gram under paragraph (1), and a statement explaining
13 why the project was not included in any other program
14 under the jurisdiction of the Administrator.

15 “(D) The total number of projects that may be car-
16 ried out under this paragraph in any fiscal year may not
17 exceed five projects.

18 “(E) The Administrator may not utilize the authority
19 in this paragraph until 60 days after the later of—

20 “(i) the date of the submittal to the congres-
21 sional defense committees of a list of the projects se-
22 lected for inclusion in the Facilities and Infrastruc-
23 ture Recapitalization Program under paragraph (1);
24 or

1 “(ii) the date of the submittal to the congres-
2 sional defense committees of the report required by
3 subsection (c).

4 “(F) A project may not be carried out under this
5 paragraph unless the project will be completed by Sep-
6 tember 30, 2011.”.

7 (b) CONSTRUCTION OF AUTHORITY.—The amend-
8 ments made by subsection (a) may not be construed to
9 authorize any delay in either of the following:

10 (1) The selection of projects for inclusion in the
11 Facilities and Infrastructure Recapitalization Pro-
12 gram under subsection (a) of section 3114 of the
13 National Defense Authorization Act for Fiscal Year
14 2004.

15 (2) The submittal of the report required by sub-
16 section (c) of such section.

17 **SEC. 3114. MODIFICATION OF MILESTONE AND REPORT RE-**
18 **QUIREMENTS FOR NATIONAL IGNITION FA-**
19 **CILITY.**

20 (a) NOTIFICATION ON MILESTONES TO ACHIEVE IG-
21 NITION.—Subsection (a) of section 3137 of the National
22 Defense Authorization Act for Fiscal Year 2002 (Public
23 Law 107–107; 115 Stat. 1369) is amended by striking
24 “each Level I milestone and Level II milestone for the Na-
25 tional Ignition Facility.” and inserting the following:

1 “each milestone for the National Ignition Facility as fol-
2 lows:

3 “(1) Each Level I milestone.

4 “(2) Each Level II milestone.

5 “(3) Each milestone to achieve ignition.”.

6 (b) REPORT ON FAILURE OF TIMELY ACHIEVEMENT
7 OF MILESTONES.—Subsection (b) of such section is
8 amended by striking “a Level I milestone or Level II mile-
9 stone for the National Ignition Facility” and inserting “a
10 milestone for the National Ignition Facility referred to in
11 subsection (a)”.

12 (c) MILESTONES TO ACHIEVE IGNITION.—Sub-
13 section (c) of such section is amended to read as follows:

14 “(c) MILESTONES.—For purposes of this section:

15 “(1) The Level I and Level II milestones for
16 the National Ignition Facility are as established in
17 the August 2000 revised National Ignition Facility
18 baseline document.

19 “(2) The milestones of the National Ignition
20 Facility to achieve ignition are such milestones
21 (other than the milestones referred to in paragraph
22 (1)) as the Administrator shall establish on any ac-
23 tivities at the National Ignition Facility that are re-
24 quired to enable the National Ignition Facility to

1 achieve ignition and be a fully functioning user facil-
2 ity by December 31, 2011.”.

3 (d) SUBMITTAL TO CONGRESS OF MILESTONES TO
4 ACHIEVE IGNITION.—Not later than January 31, 2005,
5 the Administrator for Nuclear Security shall submit to the
6 congressional defense committees a report setting forth
7 the milestones of the National Ignition Facility to achieve
8 ignition as established by the Administration under sub-
9 section (c)(2) of section 3137 of the National Defense Au-
10 thorization Act for Fiscal Year 2002, as amended by sub-
11 section (c) of this section. The report shall include—

- 12 (1) a description of each milestone established;
13 and
14 (2) a proposal for the funding to be required to
15 meet each such milestone.

16 (e) EXTENSION OF SUNSET.—Subsection (d) of sec-
17 tion 3137 of such Act is amended by striking “September
18 30, 2004” and inserting “December 31, 2011”.

19 **SEC. 3115. MODIFICATION OF SUBMITTAL DATE OF ANNUAL**
20 **PLAN FOR STEWARDSHIP, MANAGEMENT,**
21 **AND CERTIFICATION OF WARHEADS IN THE**
22 **NUCLEAR WEAPONS STOCKPILE.**

23 Section 4203(e) of the Atomic Energy Defense Act
24 (50 U.S.C. 2523(e)) is amended is amended by striking

1 “March 15 of each year thereafter” and inserting “May
2 1 of each year thereafter”.

3 **SEC. 3116. DEFENSE SITE ACCELERATION COMPLETION.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, with respect to material stored at a Depart-
6 ment of Energy site at which activities are regulated by
7 the State pursuant to approved closure plans or permits
8 issued by the State, high-level radioactive waste does not
9 include radioactive material resulting from the reprocess-
10 ing of spent nuclear fuel that the Secretary of Energy
11 determines—

12 (1) does not require permanent isolation in a
13 deep geologic repository for spent fuel or highly ra-
14 dioactive waste pursuant to criteria promulgated by
15 the Department of Energy by rule approved by the
16 Nuclear Regulatory Commission;

17 (2) has had highly radioactive radionuclides re-
18 moved to the maximum extent practical in accord-
19 ance with the Nuclear Regulatory Commission-ap-
20 proved criteria; and

21 (3) in the case of material derived from the
22 storage tanks, is disposed of in a facility (including
23 a tank) within the State pursuant to a State-ap-
24 proved closure plan or a State-issued permit, author-

1 ity for the approval or issuance of which is conferred
2 on the State outside of this Act.

3 (b) INAPPLICABILITY TO CERTAIN MATERIALS.—

4 Subsection (a) shall not apply to any material otherwise
5 covered by that subsection that is transported from the
6 State.

7 (c) SCOPE OF AUTHORITY TO CARRY OUT AC-
8 TIONS.—The Department of Energy may implement any
9 action authorized—

10 (1) by a State-approved closure plan or State-
11 issued permit in existence on the date of enactment
12 of this section; or

13 (2) by a closure plan approved by the State or
14 a permit issued by the State during the pendency of
15 the rulemaking provided for in subsection (a).

16 Any such action may be completed pursuant to the terms
17 of the closure plan or the State-issued permit notwith-
18 standing the final criteria adopted by the rulemaking pur-
19 suant to subsection (a).

20 (d) STATE DEFINED.—In this section, the term
21 “State” means the State of South Carolina.

22 (e) CONSTRUCTION.—(1) Nothing in this section
23 shall affect, alter, or modify the full implementation of—

24 (A) the settlement agreement entered into by
25 the United States with the State of Idaho in the ac-

1 tions captioned Public Service Co. of Colorado v.
2 Batt, Civil No. 91–0035–S–EJL, and United States
3 v. Batt, Civil No. 91–0054–S–EJL, in the United
4 States District Court for the District of Idaho, and
5 the consent order of the United States District
6 Court for the District of Idaho, dated October 17,
7 1995, that effectuates the settlement agreement;

8 (B) the Idaho National Engineering Laboratory
9 Federal Facility Agreement and Consent Order; or

10 (C) the Hanford Federal Facility Agreement
11 and Consent Order.

12 (2) Nothing in this section establishes any precedent
13 or is binding on the State of Idaho, the State of Wash-
14 ington, the State of Oregon, or any other State for the
15 management, storage, treatment, and disposition of radio-
16 active and hazardous materials.

17 **SEC. 3117. NATIONAL ACADEMY OF SCIENCES STUDY.**

18 (a) REVIEW BY NATIONAL RESEARCH COUNCIL.—
19 Not later than 30 days after the date of the enactment
20 of this Act, the Secretary of Energy shall enter into a con-
21 tract with the National Research Council of the National
22 Academies to conduct a study of the necessary tech-
23 nologies and research gaps in the Department of Energy’s
24 program to remove high-level radioactive waste from the

1 storage tanks at the Department's sites in South Carolina,
2 Washington and Idaho.

3 (b) MATTERS TO BE ADDRESSED IN STUDY.—The
4 study shall address the following:

5 (1) the quantities and characteristics of waste
6 in each high-level waste storage tank described in
7 paragraph (a), including data uncertainties;

8 (2) the technologies by which high-level radio-
9 active waste is currently being removed from the
10 tanks for final disposal under the Nuclear Waste
11 Policy Act;

12 (3) technologies currently available but not in
13 use in removing high-level radioactive waste from
14 the tanks;

15 (4) any technology gaps that exist to effect the
16 removal of high-level radioactive waste from the
17 tanks;

18 (5) other matters that in the judgement of the
19 National Research Council directly relate to the
20 focus of this study.

21 (c) TIME LIMITATION.—The National Research
22 Council shall conduct the review over a one year period
23 beginning upon execution of the contract described in sub-
24 section (a).

1 (d) REPORTS.—(1) The National Research Council
2 shall submit its findings, conclusions and recommenda-
3 tions to the Secretary of Energy and to the relevant Com-
4 mittees of jurisdiction of the United States Senate and
5 House of Representatives.

6 (2) The final report shall be submitted in un-
7 classified form with classified annexes as necessary.

8 (e) PROVISION OF INFORMATION.—The Secretary of
9 Energy shall make available to the National Research
10 Council all of the information necessary to complete its
11 report in a timely manner.

12 (f) EXPEDITED PROCESSING OF SECURITY CLEAR-
13 ANCES.—For purposes of facilitating the commencement
14 of the study under this section, the Secretary of Energy
15 shall expedite to the fullest degree possible the processing
16 of security clearances that are necessary for the National
17 Research Council to conduct the study.

18 (g) FUNDING.—Of the amount authorized to be ap-
19 propriated in section 3102(a)(1) for environmental man-
20 agement for defense site acceleration completion,
21 \$750,000 shall be available for the study authorized under
22 this section.

1 **SEC. 3118. ANNUAL REPORT ON EXPENDITURES FOR SAFE-**
2 **GUARDS AND SECURITY.**

3 (a) ANNUAL REPORT REQUIRED.—Subtitle C of title
4 XLVII of the Atomic Energy Defense Act (50 U.S.C.
5 2771 et seq.) is amended by adding at the end the fol-
6 lowing new section:

7 **“SEC. 4732. ANNUAL REPORT ON EXPENDITURES FOR SAFE-**
8 **GUARDS AND SECURITY.**

9 “The Secretary of Energy shall submit to Congress
10 each year, in the budget justification materials submitted
11 to Congress in support of the budget of the President for
12 the fiscal year beginning in such year (as submitted under
13 section 1105(a) of title 31, United States Code), the fol-
14 lowing:

15 “(1) A detailed description and accounting of
16 the proposed obligations and expenditures by the
17 Department of Energy for safeguards and security
18 in carrying out programs necessary for the national
19 security for the fiscal year covered by such budget,
20 including any technologies on safeguards and secu-
21 rity proposed to be deployed or implemented during
22 such fiscal year.

23 “(2) With respect to the fiscal year ending in
24 the year before the year in which such budget is sub-
25 mitted, a detailed description and accounting of—

1 “(A) the policy on safeguards and security,
2 including any modifications in such policy
3 adopted or implemented during such fiscal year;

4 “(B) any initiatives on safeguards and se-
5 curity in effect or implemented during such fis-
6 cal year;

7 “(C) the amount obligated and expended
8 for safeguards and security during such fiscal
9 year, set forth by total amount, by amount per
10 program, and by amount per facility; and

11 “(D) the technologies on safeguards and
12 security deployed or implemented during such
13 fiscal year.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 for that Act is amended by inserting after the item relat-
16 ing to section 4731 the following new item:

“Sec. 4732. Annual report on expenditures for safeguards and security.”.

17 **SEC. 3119. AUTHORITY TO CONSOLIDATE COUNTERINTEL-**
18 **LIGENCE OFFICES OF DEPARTMENT OF EN-**
19 **ERGY AND NATIONAL NUCLEAR SECURITY**
20 **ADMINISTRATION WITHIN NATIONAL NU-**
21 **CLEAR SECURITY ADMINISTRATION.**

22 (a) AUTHORITY.—The Secretary of Energy may con-
23 solidate the counterintelligence programs and functions re-
24 ferred to in subsection (b) within the Office of Defense
25 Nuclear Counterintelligence of the National Nuclear Secu-

1 rity Administration and provide for their discharge by that
2 Office.

3 (b) COVERED PROGRAMS AND FUNCTIONS.—The
4 programs and functions referred to in this subsection are
5 as follows:

6 (1) The functions and programs of the Office of
7 Counterintelligence of the Department of Energy
8 under section 215 of the Department of Energy Or-
9 ganization Act (42 U.S.C. 7144b).

10 (2) The functions and programs of the Office of
11 Defense Nuclear Counterintelligence of the National
12 Nuclear Security Administration under section 3232
13 of the National Nuclear Security Administration Act
14 (50 U.S.C. 2422), including the counterintelligence
15 programs under section 3233 of that Act (50 U.S.C.
16 2423).

17 (c) ESTABLISHMENT OF POLICY.—The Secretary
18 shall have the responsibility to establish policy for the dis-
19 charge of the counterintelligence programs and functions
20 consolidated within the National Nuclear Security Admin-
21 istration under subsection (a) as provided for under sec-
22 tion 213 of the Department of Energy Organization Act
23 (42 U.S.C. 7144).

24 (d) PRESERVATION OF COUNTERINTELLIGENCE CA-
25 PABILITY.—In consolidating counterintelligence programs

1 and functions within the National Nuclear Security Ad-
2 ministration under subsection (a), the Secretary shall en-
3 sure that the counterintelligence capabilities of the De-
4 partment of Energy and the National Nuclear Security
5 Administration are in no way degraded or compromised.

6 (e) REPORT ON EXERCISE OF AUTHORITY.—In the
7 event the Secretary exercises the authority in subsection
8 (a), the Secretary shall submit to the congressional de-
9 fense committees a report on the exercise of the authority.
10 The report shall include—

11 (1) a description of the manner in which the
12 counterintelligence programs and functions referred
13 to in subsection (b) shall be consolidated within the
14 Office of Defense Nuclear Counterintelligence of the
15 National Nuclear Security Administration and dis-
16 charged by that Office;

17 (2) a notice of the date on which that Office
18 shall commence the discharge of such programs and
19 functions, as so consolidated; and

20 (3) a proposal for such legislative action as the
21 Secretary considers appropriate to effectuate the dis-
22 charge of such programs and functions, as so con-
23 solidated, by that Office.

24 (f) DEADLINE FOR EXERCISE OF AUTHORITY.—The
25 authority in subsection (a) may be exercised, if at all, not

1 later than one year after the date of the enactment of this
2 Act.

3 **SEC. 3120. TREATMENT OF WASTE MATERIAL.**

4 (a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of
5 the amount authorized to be appropriated by section
6 3102(a)(1) for environmental management for defense site
7 acceleration completion, \$350,000,000 shall be available
8 for the following purposes at the sites referred to in sub-
9 section (b):

10 (1) The safe management of tanks or tank
11 farms used to store waste from reprocessing activi-
12 ties.

13 (2) The on-site treatment and storage of wastes
14 from reprocessing activities and related waste.

15 (3) The consolidation of tank waste.

16 (4) The emptying and cleaning of storage
17 tanks.

18 (5) Actions under section 3116.

19 (b) SITES.—The sites referred to in this subsection
20 are as follows:

21 (1) The Idaho National Engineering and Envi-
22 ronmental Laboratory, Idaho.

23 (2) The Savannah River Site, Aiken, South
24 Carolina.

25 (3) The Hanford Site, Richland, Washington.

1 (c) EFFECTIVE DATE.—This section shall become ef-
2 fective 1 day after enactment.

3 **SEC. 3121. LOCAL STAKEHOLDER ORGANIZATIONS FOR DE-**
4 **PARTMENT OF ENERGY ENVIRONMENTAL**
5 **MANAGEMENT 2006 CLOSURE SITES.**

6 (a) ESTABLISHMENT.—(1) The Secretary of Energy
7 shall establish for each Department of Energy Environ-
8 mental Management 2006 closure site a local stakeholder
9 organization having the responsibilities set forth in sub-
10 section (c).

11 (2) The local stakeholder organization shall be estab-
12 lished in consultation with interested elected officials of
13 local governments in the vicinity of the closure site con-
14 cerned.

15 (b) COMPOSITION.—A local stakeholder organization
16 for a Department of Energy Environmental Management
17 2006 closure site under subsection (a) shall be composed
18 of such elected officials of local governments in the vicinity
19 of the closure site concerned as the Secretary considers
20 appropriate to carry out the responsibilities set forth in
21 subsection (c) who agree to serve on the organization, or
22 the designees of such officials.

23 (c) RESPONSIBILITIES.—A local stakeholder organi-
24 zation for a Department of Energy Environmental Man-
25 agement 2006 closure site under subsection (a) shall—

1 (1) solicit and encourage public participation in
2 appropriate activities relating to the closure and
3 post-closure operations of the site;

4 (2) disseminate information on the closure and
5 post-closure operations of the site to the State gov-
6 ernment of the State in which the site is located,
7 local and Tribal governments in the vicinity of the
8 site, and persons and entities having a stake in the
9 closure or post-closure operations of the site;

10 (3) transmit to appropriate officers and employ-
11 ees of the Department of Energy questions and con-
12 cerns of governments, persons, and entities referred
13 to paragraph (2) on the closure and post-closure op-
14 erations of the site; and

15 (4) perform such other duties as the Secretary
16 and the local stakeholder organization jointly deter-
17 mine appropriate to assist the Secretary in meeting
18 post-closure obligations of the Department at the
19 site.

20 (d) DEADLINE FOR ESTABLISHMENT.—The local
21 stakeholder organization for a Department of Energy En-
22 vironmental Management 2006 closure site shall be estab-
23 lished not later than six months before the closure of the
24 site.

1 (e) INAPPLICABILITY OF FEDERAL ADVISORY COM-
 2 MITTEE ACT.—The Federal Advisory Committee Act (5
 3 U.S.C. App.) shall not apply to local stakeholder organiza-
 4 tions under this section.

5 (f) DEPARTMENT OF ENERGY ENVIRONMENTAL
 6 MANAGEMENT 2006 CLOSURE SITE DEFINED.—In this
 7 section, the term “Department of Energy Environmental
 8 Management 2006 closure site” means each clean up site
 9 of the Department of Energy scheduled by the Depart-
 10 ment as of January 1, 2004, for closure in 2006.

11 **SEC. 3122. REPORT ON MAINTENANCE OF RETIREMENT**
 12 **BENEFITS FOR CERTAIN WORKERS AT 2006**
 13 **CLOSURE SITES AFTER CLOSURE OF SITES.**

14 (a) REPORT REQUIRED.—Not later than 60 days
 15 after the date of the enactment of this Act, the Assistant
 16 Secretary of Energy for Environmental Management shall
 17 submit to the Secretary of Energy a report on the mainte-
 18 nance of retirements benefits for workers at Department
 19 of Energy 2006 closure sites after the closure of such
 20 sites.

21 (b) ELEMENTS.—The report under subsection (a)
 22 shall include the following:

23 (1) The number of workers at Department of
 24 Energy 2006 closure sites that could lose retirement

1 benefits as a result of the early closure of such a
2 site.

3 (2) The impact on collective bargaining agree-
4 ments with workers at Department of Energy 2006
5 closure sites of the loss of their retirement benefits
6 as described in paragraph (1).

7 (3) The cost of providing retirement benefits,
8 after the closure of Department of Energy 2006 clo-
9 sure sites, to workers at such sites who would other-
10 wise lose their benefits as described in paragraph (1)
11 after the closure of such sites.

12 (c) TRANSMITTAL TO CONGRESS.—Not later than 30
13 days after receiving the report under subsection (a), the
14 Secretary shall transmit the report to Congress, together
15 with such recommendations, including recommendations
16 for legislative action, as the Secretary considers appro-
17 priate.

18 (d) DEFINITIONS.—In this section:

19 (1) The term “Department of Energy 2006 clo-
20 sure site” means the following:

21 (A) The Rocky Flats Environmental Tech-
22 nology Site, Colorado.

23 (B) The Fernald Plant, Ohio.

24 (C) The Mound Plant, Ohio.

1 (2) The term “worker” means any employee
2 who is employed by contract to perform cleanup, se-
3 curity, or administrative duties or responsibilities at
4 a Department of Energy 2006 closure site.

5 (3) The term “retirement benefits” means
6 health, pension, and any other retirement benefits.

7 **SEC. 3123. REPORT ON EFFORTS OF NATIONAL NUCLEAR**
8 **SECURITY ADMINISTRATION TO UNDER-**
9 **STAND PLUTONIUM AGING.**

10 (a) **STUDY.**—(1) The Administrator for Nuclear Se-
11 curity shall enter into a contract with a Federally Funded
12 Research and Development Center (FFRDC) providing
13 for a study to assess the efforts of the National Nuclear
14 Security Administration to understand the aging of pluto-
15 nium in nuclear weapons.

16 (2) The Administrator shall make available to the
17 FFRDC contractor under this subsection all information
18 that is necessary for the contractor to successfully com-
19 plete a meaningful study on a timely basis.

20 (b) **REPORT REQUIRED.**—(1) Not later than two
21 years after the date of the enactment of this Act, the Ad-
22 ministrator shall submit to Congress a report on the find-
23 ings of the study on the efforts of the Administration to
24 understand the aging of plutonium in nuclear weapons.

1 (2) The report shall include the recommendations of
2 the study for improving the knowledge, understanding,
3 and application of the fundamental and applied sciences
4 related to the study of plutonium aging.

5 (3) The report shall be submitted in unclassified
6 form, but may include a classified annex.

7 **Subtitle C—Proliferation Matters**

8 **SEC. 3131. MODIFICATION OF AUTHORITY TO USE INTER-** 9 **NATIONAL NUCLEAR MATERIALS PROTEC-** 10 **TION AND COOPERATION PROGRAM FUNDS** 11 **OUTSIDE THE FORMER SOVIET UNION.**

12 (a) **APPLICABILITY OF AUTHORITY LIMITED TO**
13 **PROJECTS NOT PREVIOUSLY AUTHORIZED.**—Subsection
14 (a) of section 3124 of the National Defense Authorization
15 Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat.
16 1747) is amended by inserting “that has not previously
17 been authorized by Congress” after “states of the former
18 Soviet Union”.

19 (b) **REPEAL OF LIMITATION ON TOTAL AMOUNT OF**
20 **OBLIGATION.**—Such section is further amended—

21 (1) by striking subsection (c); and

22 (2) by redesignating subsections (d), (e), and

23 (f) as subsections (c), (d), and (e), respectively.

1 **SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF**
2 **FISSILE MATERIALS, RADIOLOGICAL MATE-**
3 **RIALS, AND RELATED EQUIPMENT AT VUL-**
4 **NERABLE SITES WORLDWIDE.**

5 (a) SENSE OF CONGRESS.—(1) It is the sense of Con-
6 gress that the security, including the rapid removal or se-
7 cure storage, of high-risk, proliferation-attractive fissile
8 materials, radiological materials, and related equipment at
9 vulnerable sites worldwide should be a top priority among
10 the activities to achieve the national security of the United
11 States.

12 (2) It is the sense of Congress that the President may
13 establish in the Department of Energy a task force to be
14 known as the Task Force on Nuclear Materials to carry
15 out the program authorized by subsection (b).

16 (b) PROGRAM AUTHORIZED.—The Secretary of En-
17 ergy may carry out a program to undertake an acceler-
18 ated, comprehensive worldwide effort to mitigate the
19 threats posed by high-risk, proliferation-attractive fissile
20 materials, radiological materials, and related equipment
21 located at sites potentially vulnerable to theft or diversion.

22 (c) PROGRAM ELEMENTS.—(1) Activities under the
23 program under subsection (b) may include the following:

24 (A) Accelerated efforts to secure, remove, or
25 eliminate proliferation-attractive fissile materials or

1 radiological materials in research reactors, other re-
2 actors, and other facilities worldwide.

3 (B) Arrangements for the secure shipment of
4 proliferation-attractive fissile materials, radiological
5 materials, and related equipment to other countries
6 willing to accept such materials and equipment, or
7 to the United States if such countries cannot be
8 identified, and the provision of secure storage or dis-
9 position of such materials and equipment following
10 shipment.

11 (C) The transportation of proliferation-attract-
12 tive fissile materials, radiological materials, and re-
13 lated equipment from sites identified as proliferation
14 risks to secure facilities in other countries or in the
15 United States.

16 (D) The processing and packaging of prolifera-
17 tion-attractive fissile materials, radiological mate-
18 rials, and related equipment in accordance with re-
19 quired standards for transport, storage, and disposi-
20 tion.

21 (E) The provision of interim security upgrades
22 for vulnerable, proliferation-attractive fissile mate-
23 rials and radiological materials and related equip-
24 ment pending their removal from their current sites.

1 (F) The utilization of funds to upgrade security
2 and accounting at sites where proliferation-attractive
3 fissile materials or radiological materials will remain
4 for an extended period of time in order to ensure
5 that such materials are secure against plausible po-
6 tential threats and will remain so in the future.

7 (G) The management of proliferation-attractive
8 fissile materials, radiological materials, and related
9 equipment at secure facilities.

10 (H) Actions to ensure that security, including
11 security upgrades at sites and facilities for the stor-
12 age or disposition of proliferation-attractive fissile
13 materials, radiological materials, and related equip-
14 ment, continues to function as intended.

15 (I) The provision of technical support to the
16 International Atomic Energy Agency (IAEA), other
17 countries, and other entities to facilitate removal of,
18 and security upgrades to facilities that contain, pro-
19 liferation-attractive fissile materials, radiological ma-
20 terials, and related equipment worldwide.

21 (J) The development of alternative fuels and ir-
22 radiation targets based on low-enriched uranium to
23 convert research or other reactors fueled by highly-
24 enriched uranium to such alternative fuels, as well
25 as the conversion of reactors and irradiation targets

1 employing highly-enriched uranium to employment
2 of such alternative fuels and targets.

3 (K) Accelerated actions for the blend down of
4 highly-enriched uranium to low-enriched uranium.

5 (L) The provision of assistance in the closure
6 and decommissioning of sites identified as presenting
7 risks of proliferation of proliferation-attractive fissile
8 materials, radiological materials, and related equip-
9 ment.

10 (M) Programs to—

11 (i) assist in the placement of employees
12 displaced as a result of actions pursuant to the
13 program in enterprises not representing a pro-
14 liferation threat; and

15 (ii) convert sites identified as presenting
16 risks of proliferation regarding proliferation-at-
17 tractive fissile materials, radiological materials,
18 and related equipment to purposes not rep-
19 resenting a proliferation threat to the extent
20 necessary to eliminate the proliferation threat.

21 (2) The Secretary of Energy shall, in coordination
22 with the Secretary of State, carry out the program in con-
23 sultation with, and with the assistance of, appropriate de-
24 partments, agencies, and other entities of the United
25 States Government.

1 (3) The Secretary of Energy shall, with the concur-
2 rence of the Secretary of State, carry out activities under
3 the program in collaboration with such foreign govern-
4 ments, non-governmental organizations, and other inter-
5 national entities as the Secretary considers appropriate for
6 the program.

7 (d) REPORTS.—(1) Not later than March 15, 2005,
8 the Secretary shall submit to Congress a classified interim
9 report on the program under subsection (b).

10 (2) Not later than January 1, 2006, the Secretary
11 shall submit to Congress a classified final report that in-
12 cludes the following:

13 (A) A survey by the Secretary of the facilities
14 and sites worldwide that contain proliferation-attract-
15 ive fissile materials, radiological materials, or re-
16 lated equipment.

17 (B) A list of sites determined by the Secretary
18 to be of the highest priority, taking into account risk
19 of theft from such sites, for removal or security of
20 proliferation-attractive fissile materials, radiological
21 materials, or related equipment, organized by level of
22 priority.

23 (C) A plan, including activities under the pro-
24 gram under this section, for the removal, security, or
25 both of proliferation-attractive fissile materials, radi-

1 ological materials, or related equipment at vulner-
2 able facilities and sites worldwide, including measur-
3 able milestones, metrics, and estimated costs for the
4 implementation of the plan.

5 (3) A summary of each report under this subsection
6 shall also be submitted to Congress in unclassified form.

7 (e) FUNDING.—Amounts authorized to be appro-
8 priated to the Secretary of Energy for defense nuclear
9 nonproliferation activities shall be available for purposes
10 of the program under this section.

11 (f) DEFINITIONS.—In this section:

12 (1) The term “fissile materials” means pluto-
13 nium, highly-enriched uranium, or other material ca-
14 pable of sustaining an explosive nuclear chain reac-
15 tion, including irradiated items containing such ma-
16 terials if the radiation field from such items is not
17 sufficient to prevent the theft or misuse of such
18 items.

19 (2) The term “radiological materials” includes
20 Americium-241, Californium-252, Cesium-137, Co-
21 balt-60, Iridium-192, Plutonium-238, Radium-226
22 and Strontium-90, Curium-244, Strontium-90, and
23 irradiated items containing such materials, or other
24 materials designated by the Secretary of Energy for
25 purposes of this paragraph.

1 (3) The term “related equipment” includes
2 equipment useful for enrichment of uranium in the
3 isotope 235 and for extraction of fissile materials
4 from irradiated fuel rods and other equipment des-
5 ignated by the Secretary of Energy for purposes of
6 this section.

7 (4) The term “highly-enriched uranium” means
8 uranium enriched to or above 20 percent in isotope
9 235.

10 (5) The term “low-enriched uranium” means
11 uranium enriched below 20 percent in isotope 235.

12 (6) The term “proliferation-attractive”, in the
13 case of fissile materials and radiological materials,
14 means quantities and types of such materials that
15 are determined by the Secretary of Energy to
16 present a significant risk to the national security of
17 the United States if diverted to a use relating to
18 proliferation.

19 **Subtitle D—Other Matters**

20 **SEC. 3141. INDEMNIFICATION OF DEPARTMENT OF ENERGY**

21 **CONTRACTORS.**

22 Section 170 d.(1)(A) of the Atomic Energy Act of
23 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking
24 “until December 31, 2004” and inserting “until December
25 31, 2006”.

1 **SEC. 3142. TWO-YEAR EXTENSION OF AUTHORITY FOR AP-**
2 **POINTMENT OF CERTAIN SCIENTIFIC, ENGI-**
3 **NEERING, AND TECHNICAL PERSONNEL.**

4 Section 4601(c)(1) of the Atomic Energy Defense Act
5 (50 U.S.C. 2701(c)(1)) is amended by striking “Sep-
6 tember 30, 2004” and inserting “September 30, 2006”.

7 **SEC. 3143. ENHANCEMENT OF ENERGY EMPLOYEES OCCU-**
8 **PATIONAL ILLNESS COMPENSATION PRO-**
9 **GRAM AUTHORITIES.**

10 (a) STATE AGREEMENTS.—Section 3661 of the Floyd
11 D. Spence National Defense Authorization Act for Fiscal
12 Year 2001 (as enacted into law by Public Law 106–394)
13 (42 U.S.C. 7385o) is amended—

14 (1) in subsection (b), by striking “Pursuant to
15 agreements under subsection (a), the” and inserting
16 “The”;

17 (2) in subsection (c), by striking “provided in
18 an agreement under subsection (a), and if”; and

19 (3) in subsection (e), by striking “If provided in
20 an agreement under subsection (a)” and inserting
21 “If a panel has reported a determination under sub-
22 section (d)(5)”.

23 (b) PHYSICIAN PANELS.—Subsection (d) of such sec-
24 tion is amended by striking paragraph (2) and inserting
25 the following new paragraph (2):

1 “(2) The Secretary of Health and Human Services
 2 shall, in consultation with the Secretary of Energy, select
 3 the individuals to serve as panel members based on experi-
 4 ence and competency in diagnosing occupational illnesses.
 5 The Secretary shall appoint the individuals so selected as
 6 panel members or shall obtain by contract the services of
 7 such individuals as panel members.”.

8 **SEC. 3144. SUPPORT FOR PUBLIC EDUCATION IN THE VI-**
 9 **CINITY OF LOS ALAMOS NATIONAL LABORA-**
 10 **TORY, NEW MEXICO.**

11 The Secretary of Energy shall require that the pri-
 12 mary management and operations contract for Los Ala-
 13 mos National Laboratory, New Mexico, that involves Lab-
 14 oratory operations after September 30, 2005, shall contain
 15 terms requiring the contractor under such contract to pro-
 16 vide support to the Los Alamos Public School District,
 17 New Mexico, for the elementary and secondary education
 18 of students by the School District in the amount of
 19 \$8,000,000 in each fiscal year.

20 **SEC. 3145. REVIEW OF WASTE ISOLATION PILOT PLANT,**
 21 **NEW MEXICO, PURSUANT TO COMPETITIVE**
 22 **CONTRACT.**

23 (a) **CONTRACT REQUIREMENT.**—The Secretary of
 24 Energy shall use competitive procedures to enter into a
 25 contract to conduct independent reviews and evaluations

1 of the design, construction, and operations of the Waste
2 Isolation Pilot Plant in New Mexico (hereafter in this sec-
3 tion referred as the “WIPP”) as they relate to the protec-
4 tion of the public health and safety and the environment.
5 The contract shall be for a period of one year, beginning
6 on October 1, 2004, and shall be renewable for four addi-
7 tional one-year periods with the consent of the contractor
8 and subject to the authorization and appropriation of
9 funds for such purpose.

10 (b) CONTENT OF CONTRACT.—A contract entered
11 into under subsection (a) shall require the following:

12 (1) The contractor shall appoint a Director and
13 Deputy Director, who shall be scientists of national
14 eminence in the field of nuclear waste disposal, shall
15 be free from any biases related to the activities of
16 the WIPP, and shall be widely known for their in-
17 tegrity and scientific expertise.

18 (2) The Director shall appoint staff. The pro-
19 fessional staff shall consist of scientists and engi-
20 neers of recognized integrity and scientific expertise
21 who represent scientific and engineering disciplines
22 needed for a thorough review of the WIPP, including
23 disciplines such as geology, hydrology, health phys-
24 ics, environmental engineering, probability risk anal-
25 ysis, mining engineering, and radiation chemistry.

1 The disciplines represented in the staff shall change
2 as may be necessary to meet changed needs in car-
3 rying out the contract for expertise in any certain
4 scientific or engineering discipline. Scientists em-
5 ployed under the contract shall have qualifications
6 and experience equivalent to the qualifications and
7 experience required for scientists employed by the
8 Federal Government in grades GS-13 through GS-
9 15.

10 (3) Scientists employed under the contract shall
11 have an appropriate support staff.

12 (4) The Director and Deputy Director shall
13 each be appointed for a term of 5 years, subject to
14 contract renewal, and may be removed only for mis-
15 conduct or incompetence. The staff shall be ap-
16 pointed for such terms as the Director considers ap-
17 propriate.

18 (5) The rates of pay of professional staff and
19 the procedures for increasing the rates of pay of pro-
20 fessional staff shall be equivalent to those rates and
21 procedures provided for the General Schedule pay
22 system under chapter 53 of title 5, United States
23 Code.

24 (6) The results of reviews and evaluations car-
25 ried out under the contract shall be published.

1 (c) ADMINISTRATION.—The contractor shall establish
2 general policies and guidelines to be used by the Director
3 in carrying out the work under the contract.

4 **SEC. 3146. COMPENSATION OF PAJARITO PLATEAU, NEW**
5 **MEXICO, HOMESTEADERS FOR ACQUISITION**
6 **OF LANDS FOR MANHATTAN PROJECT IN**
7 **WORLD WAR II.**

8 (a) ESTABLISHMENT OF COMPENSATION FUND.—
9 There is established in the Treasury of the United States
10 a fund to be known as the Pajarito Plateau Homesteaders
11 Compensation Fund (in this section referred to as the
12 “Fund”). The Fund shall be dedicated to the settlement
13 of the two lawsuits in the United States District Court
14 for the District of New Mexico consolidated as Civ. No.
15 00–60.

16 (b) ELEMENTS OF FUND.—The Fund shall consist
17 of the following:

18 (1) Amounts available for deposit in the Fund
19 under subsection (j).

20 (2) Interest earned on amounts in the Fund
21 under subsection (g).

22 (c) USE OF FUND.—The Fund shall be available for
23 the settlement of the consolidated lawsuits in accordance
24 with the following requirements:

1 (1) The settlement shall be subject to prelimi-
2 nary and final approval by the Court in accordance
3 with rule 23(e) of the Federal Rules of Civil Proce-
4 dure.

5 (2) Lead Counsel and Counsel for the United
6 States of America shall recommend to the Court rea-
7 sonable procedures by which the claims for monies
8 from the Fund shall be administered, which rec-
9 ommendations shall include mechanisms—

10 (A) to identify class members;

11 (B) to receive claims from class members
12 so identified;

13 (C) to determine in accordance with sub-
14 section (d) eligible claimants from among class
15 members submitting claims; and

16 (D) to resolve contests, if any, among eligi-
17 ble claimants with respect to a particular eligi-
18 ble tract regarding the disbursement of monies
19 in the Fund with respect to such eligible tract.

20 (3) Lead Counsel and Counsel for the United
21 States of America shall provide evidence to the
22 Court to assist the Court in—

23 (A) identifying each class member by name
24 and whereabouts;

1 (B) providing notice of the settlement
2 process for the consolidated lawsuits to each
3 class member so identified; and

4 (C) providing the forms, and describing the
5 procedure, for making claims to each class
6 member so identified.

7 (4) After the provision of notice to class mem-
8 bers under paragraph (3), if, within a time period to
9 be established by the Court, more than 10 percent
10 of the class members submit to the Court written
11 notice of their determination to be excluded from
12 participation in the settlement of the consolidated
13 lawsuits—

14 (A) the Fund shall not serve as the basis
15 for the settlement of the consolidated lawsuits
16 and the provisions of this section shall have no
17 further force or effect; and

18 (B) amounts in the Fund shall not be dis-
19 bursed, but shall be retained in the Treasury as
20 miscellaneous receipts.

21 (5) The Court may award attorney fees and ex-
22 penses from the Fund pursuant to rule 23 of the
23 Federal Rules of Civil Procedure, except that the
24 award of attorney fees may not exceed 20 percent of
25 the Fund and the award of expenses may not exceed

1 2 percent of the Fund. Any attorney fees and ex-
2 penses so paid shall be paid from the Fund before
3 distribution of the amount in the Fund to eligible
4 claimants entitled thereto.

5 (6) The Fund shall be available to pay settle-
6 ment awards in accordance with the following:

7 (A) The balance of the amount of the
8 Fund that is available for disbursement after
9 any award of attorney fees and expenses under
10 paragraph (5) shall be allocated proportionally
11 by eligible tract according to its acreage as
12 compared with all eligible tracts.

13 (B) The allocation for each eligible tract
14 shall be allocated pro rata among all eligible
15 claimants having an interest in such eligible
16 tract according to the extent of their interest in
17 such eligible tract, as determined under the
18 laws of the State of New Mexico.

19 (C) Payments from the Fund under this
20 paragraph shall be made by the Secretary of
21 the Treasury.

22 (7) Any amounts available for disbursement
23 with respect to an eligible tract that are not awarded
24 to eligible claimants with respect to that tract by

1 reason of paragraph (6)(B) shall be retained in the
2 Treasury as miscellaneous receipts.

3 (d) ELIGIBLE CLAIMANTS.—(1) For purposes of this
4 section, an eligible claimant is any class member deter-
5 mined by the Court, by a preponderance of evidence and
6 pursuant to procedures established under subsection
7 (c)(2), to be a person or entity who held a fee simple own-
8 ership in an eligible tract at the time of its acquisition
9 by the United States during World War II for use in the
10 Manhattan Project, or the heir, successor in interest, as-
11 signee, or beneficiary of such a person or entity.

12 (2) The status of a person or entity as an heir, suc-
13 cessor in interest, assignee, or beneficiary for purposes of
14 this subsection shall be determined under the laws of the
15 State of New Mexico, including the descent and distribu-
16 tion law of the State of New Mexico.

17 (e) FULL RESOLUTION OF CLAIMS AGAINST UNITED
18 STATES.—(1) The acceptance of a disbursement from the
19 Fund by an eligible claimant under this section shall con-
20 stitute a final and complete release of the defendants in
21 the consolidated lawsuits with respect to such eligible
22 claimant, and shall be in full satisfaction of any and all
23 claims of such eligible claimant against the United States
24 arising out of acts described in the consolidated lawsuits.

1 (2) Upon the disbursement of the amount in the
2 Fund to eligible claimants entitled thereto under this sec-
3 tion, the Court shall, subject to the provisions of rule 23(e)
4 of the Federal Rules of Civil Procedure, enter a final judg-
5 ment dismissing with prejudice the consolidated lawsuits
6 and all claims and potential claims on matters covered by
7 the consolidated lawsuits.

8 (f) COMPENSATION LIMITED TO AMOUNTS IN
9 FUND.—(1) An eligible claimant may be paid under this
10 section only from amounts in the Fund.

11 (2) Nothing in this section shall authorize the pay-
12 ment to a class member by the United States Government
13 of any amount authorized by this section from any source
14 other than the Fund.

15 (g) INVESTMENT OF FUND.—(1) The Secretary of
16 the Treasury shall, in accordance with the requirements
17 of section 9702 of title 31, United States Code, and the
18 provisions of this subsection, direct the form and manner
19 by which the Fund shall be safeguarded and invested so
20 as to maximize its safety while earning a return com-
21 parable to other common funds in which the United States
22 Treasury is the source of payment.

23 (2) Interest on the amount deposited in the Fund
24 shall accrue from the date of the enactment of the Act
25 appropriating amounts for deposit in the Fund until the

1 date on which the Secretary of the Treasury disburses the
2 amount in the Fund to eligible claimants who are entitled
3 thereto under subsection (c).

4 (h) PRESERVATION OF RECORDS.—(1) All docu-
5 ments, personal testimony, and other records created or
6 received by the Court in the consolidated lawsuits shall
7 be kept and maintained by the Archivist of the United
8 States, who shall preserve such documents, testimony, and
9 records in the National Archives of the United States.

10 (2) The Archivist shall make available to the public
11 the materials kept and maintained under paragraph (1).

12 (i) DEFINITIONS.—In this section:

13 (1) The term “Court” means the United States
14 District Court for the District of New Mexico having
15 jurisdiction over the consolidated lawsuits.

16 (2) The term “consolidated lawsuits” means the
17 two lawsuits in the United States District Court for
18 the District of New Mexico consolidated as Civ. No.
19 00–60.

20 (3)(A) The term “eligible tract” means private
21 real property located on the Pajarito Plateau of
22 what is now Los Alamos County, New Mexico, that
23 was acquired by the United States during World
24 War II for use in the Manhattan Project and which
25 is the subject of the consolidated lawsuits.

1 (B) The term does not include lands of the Los
2 Alamos Ranch School and of the A.M. Ross Estate
3 (doing business as Anchor Ranch).

4 (4) The term “class member” means the fol-
5 lowing:

6 (A) Any person or entity who claims to
7 have held a fee simple ownership in an eligible
8 tract at the time of its acquisition by the
9 United States during World War II for use in
10 the Manhattan Project.

11 (B) Any person or entity claiming to be
12 the heir, successor in interest, assignee, or ben-
13 eficiary of a person or entity who held a fee
14 simple ownership in an eligible tract at the time
15 of its acquisition by the United States during
16 World War II for use in the Manhattan Project.

17 (j) FUNDING.—Of the amount authorized to be ap-
18 propriated by section 3101(a)(4) for the National Nuclear
19 Security Administration for the Office of the Adminis-
20 trator for Nuclear Security, \$10,000,000 shall be available
21 for deposit in the Fund under subsection (b)(1).

1 **Subtitle E—Energy Employees Oc-**
2 **cupational Illness Compensa-**
3 **tion Program**

4 **SEC. 3151. COVERAGE OF INDIVIDUALS EMPLOYED AT**
5 **ATOMIC WEAPONS EMPLOYER FACILITIES**
6 **DURING PERIODS OF RESIDUAL CONTAMINA-**
7 **TION.**

8 (a) **COVERAGE.**—Paragraph (3) of section 3621 of
9 the Energy Employees Occupational Illness Compensation
10 Program Act of 2000 (title XXXVI of the Floyd D.
11 Spence National Defense Authorization Act for Fiscal
12 Year 2001 (as enacted into law by Public Law 106–398);
13 42 U.S.C. 7384*l*) is amended to read as follows:

14 “(3) The term ‘atomic weapons employee’
15 means any of the following:

16 “(A) An individual employed by an atomic
17 weapons employer during a period when the
18 employer was processing or producing, for the
19 use by the United States, material that emitted
20 radiation and was used in the production of an
21 atomic weapon, excluding uranium mining and
22 milling.

23 “(B) An individual employed—

24 “(i) at a facility with respect to which
25 the National Institute for Occupational

1 Safety and Health, in its report dated Oc-
2 tober 2003 and titled ‘Report on Residual
3 Radioactive and Beryllium Contamination
4 at Atomic Weapons Employer Facilities
5 and Beryllium Vendor Facilities’, or any
6 update to that report, found that there is
7 a potential for significant residual contami-
8 nation outside of the period in which weap-
9 ons-related production occurred;

10 “(ii) by an atomic weapons employer
11 or subsequent owner or operators of a fa-
12 cility described in clause (i); and

13 “(ii) during a period, as specified in
14 such report or any update to such report,
15 of potential for significant residual radio-
16 active contamination at such facility.”.

17 **SEC. 3152. UPDATE OF REPORT ON RESIDUAL CONTAMINA-**
18 **TION OF FACILITIES.**

19 (a) UPDATE OF REPORT.—Not later than December
20 31, 2006, the Director of the National Institute for Occu-
21 pational Safety and Health shall submit to Congress an
22 update to the report required by section 3151(b) of the
23 National Defense Authorization Act for Fiscal Year 2002
24 (Public Law 107–107; 42 U.S.C. 7384 note).

25 (b) ELEMENTS.—The update shall—

1 (1) for each facility for which such report found
2 that insufficient information was available to deter-
3 mine whether significant residual contamination was
4 present, determine whether significant residual con-
5 tamination was present;

6 (2) for each facility for which such report found
7 that significant residual contamination remained
8 present as of the date of the report, determine the
9 date on which such contamination ceased to be
10 present;

11 (3) for each facility for which such report found
12 that significant residual contamination was present
13 but for which the Director has been unable to deter-
14 mine the extent to which such contamination is at-
15 tributable to atomic weapons-related activities, iden-
16 tify the specific dates of coverage attributable to
17 such activities and, in so identifying, presume that
18 such contamination is attributable to such activities
19 until there is evidence of decontamination of residual
20 contamination identified with atomic weapons-re-
21 lated activities; and

22 (4) if new information that pertains to the re-
23 port has been made available to the Director since
24 that report was submitted, identify and describe
25 such information.

1 (c) PUBLICATION.—The Director shall ensure that
 2 the report referred to in subsection (a) is published in the
 3 Federal Register not later than 15 days after being re-
 4 leased.

5 **SEC. 3153. WORKERS COMPENSATION.**

6 (a) IN GENERAL.—Subtitle D of the Energy Employ-
 7 ees Occupational Illness Compensation Program Act of
 8 2000 (title XXXVI of the Floyd D. Spence National De-
 9 fense Authorization Act for Fiscal Year 2001 (as enacted
 10 into law by Public Law 106–398); 42 U.S.C. 7385*o*) is
 11 amended to read as follows:

12 **“Subtitle D—Workers**
 13 **Compensation**

14 **“SEC. 3661. COVERED DEPARTMENT OF ENERGY CON-**
 15 **TRACTOR EMPLOYEES.**

16 “(a) IN GENERAL.—In this subtitle, the term ‘cov-
 17 ered Department of Energy contractor employee’ means
 18 any Department of Energy contractor employee deter-
 19 mined under section 3663 to have contracted an occupa-
 20 tional illness or covered illness through exposure at a De-
 21 partment of Energy facility.

22 “(b) EXCLUSION OF ILLNESS THROUGH EXPOSURE
 23 AFTER COMMENCEMENT OF NEW PROGRAM.—For pur-
 24 poses of this subtitle, an occupational illness or covered
 25 illness shall not include any illness contracted by a Depart-

1 ment of Energy contractor employee through exposure at
2 a Department of Energy facility if the exposure occurs
3 after the date of the enactment of the National Defense
4 Authorization Act for Fiscal Year 2005.

5 **“SEC. 3662. WORKERS COMPENSATION.**

6 “(a) IN GENERAL.—Except as provided in subsection
7 (b), a covered Department of Energy contractor employee,
8 or the survivor of a covered Department of Energy con-
9 tractor employee if the covered Department of Energy
10 contractor employee is deceased, shall receive workers
11 compensation in an amount determined under section
12 3664.

13 “(b) ELECTION TO PROCEED UNDER STATE WORK-
14 ERS’ COMPENSATION SYSTEM.—(1) A Department of En-
15 ergy contractor employee otherwise covered by this section
16 may elect to seek workers’ compensation under the appro-
17 priate State workers’ compensation system for the occupa-
18 tional illness or covered illness of the covered Department
19 of Energy contractor employee rather than seek workers
20 compensation for the occupational illness or covered ill-
21 ness, as the case may be, under this subtitle.

22 “(2) Any Department of Energy contractor employee
23 making an election under paragraph (1) who becomes enti-
24 tled to workers’ compensation under the appropriate State
25 workers’ compensation system following an election under

1 that paragraph is not entitled to receive workers com-
2 pensation under this subtitle.

3 “(c) FUNDING.—The Secretary of Labor shall make
4 payments of workers compensation under this section
5 from amounts authorized to be appropriated for such pur-
6 pose under section 3670.

7 **“SEC. 3663. DETERMINATIONS REGARDING CONTRACTION**
8 **OF OCCUPATIONAL OR COVERED ILLNESSES.**

9 “(a) EMPLOYEES COVERED BY PREVIOUS DETER-
10 MINATION OF ENTITLEMENT TO COMPENSATION AND
11 BENEFITS.—(1) A Department of Energy contractor em-
12 ployee who has been determined to be entitled to com-
13 pensation and benefits for an occupational illness con-
14 tracted in the performance of duty at a Department of
15 Energy facility under subtitle B shall be treated as having
16 contracted the occupational illness through exposure at
17 the Department of Energy facility for purposes of this
18 subtitle.

19 “(2) A determination, pursuant to activities under
20 paragraph (2) of section 3163(d) of the National Defense
21 Authorization Act for Fiscal Year 2005 before or during
22 the period of transition of administration of this subtitle
23 to the Department of Labor under paragraph (1) of such
24 section, that an individual contracted an occupational ill-
25 ness through exposure at a Department of Energy facility

1 for purposes of this subtitle shall be valid for purposes
2 of this subtitle.

3 “(b) OTHER EMPLOYEES.—In the case of a Depart-
4 ment of Energy contractor employee not previously cov-
5 ered by a determination described in subsection (a) with
6 respect to an occupational illness, the Department of En-
7 ergy contractor employee shall be determined to have con-
8 tracted an illness (in this subtitle referred to as a ‘covered
9 illness’) through exposure at a Department of Energy fa-
10 cility for purposes of this subtitle if—

11 “(1) it is at least as likely as not that exposure
12 to a toxic substance was a significant factor in ag-
13 gravating, contributing to, or causing the illness;
14 and

15 “(2) it is at least as likely as not that the expo-
16 sure to such toxic substance was related to employ-
17 ment at a Department of Energy facility.

18 “(c) DETERMINATIONS REGARDING EMPLOYEES
19 NOT PREVIOUSLY COVERED BY DETERMINATION OF EN-
20 TITLEMENT.—(1) The Secretary of Labor shall make each
21 determination under subsection (b) as to whether or not
22 a Department of Energy contractor employee described in
23 that subsection contracted a covered illness related to em-
24 ployment at a Department of Energy facility.

1 “(2) The Secretary may utilize the services of physi-
2 cians for purposes of making determinations under this
3 subsection. Any physicians so utilized shall possess appro-
4 priate expertise and experience in the evaluation and diag-
5 nosis of illnesses aggravated, contributed to, or caused by
6 exposure to toxic substances.

7 “(3) The Secretary may secure the services of physi-
8 cians under this subsection through the appointment of
9 physicians or by contract.

10 “(4) The Secretary shall consult with the Secretary
11 of Health and Human Services before utilizing the services
12 of physicians for purposes of making determinations under
13 this subsection.

14 **“SEC. 3664. AMOUNT OF WORKERS COMPENSATION.**

15 “(a) IN GENERAL.—The amount of workers com-
16 pensation payable to a covered Department of Energy con-
17 tractor employee, or the eligible survivors of a covered De-
18 partment of Energy contractor employee, for an occupa-
19 tional illness or covered illness under section 3662 is the
20 amount of workers’ compensation to which the Depart-
21 ment of Energy contractor employee, or the eligible sur-
22 vivors, respectively, would otherwise be entitled for the oc-
23 cupational illness or covered illness, as the case may be,
24 under the appropriate State workers’ compensation sys-
25 tem.

1 “(b) INAPPLICABILITY OF CERTAIN STATE WORK-
2 ERS’ COMPENSATION SYSTEM LIMITATIONS.—The
3 amount of workers’ compensation to which a covered De-
4 partment of Energy contractor employee would otherwise
5 be entitled under subsection (a) shall be determined with-
6 out regard to any requirements under the appropriate
7 State workers’ compensation system for each of the fol-
8 lowing:

9 “(1) Statutes of limitation, or other rules lim-
10 iting compensation to claims filed within a specified
11 period after last exposure to a toxic substance or
12 after last employment by an employer where the em-
13 ployee was exposed to a toxic substance.

14 “(2) Exposure rules, including minimum peri-
15 ods of exposure to toxic substances.

16 “(3) Causation rules more stringent than the
17 standard in section 3663(b).

18 “(4) Burdens of proof, quantum of proof stand-
19 ards, or both more stringent than the standard in
20 section 3663(b).

21 “(5) Return to work requirements, including
22 obligations to participate in vocational rehabilitation
23 and medical examinations connected with the ability
24 to return to work.

1 “(6) Medical examinations in addition to med-
2 ical examinations required by the Secretary of Labor
3 for the application of section 3663 in determining
4 causation or required by the Secretary of Labor for
5 the application of subsection (c) in determining the
6 amount of workers’ compensation payable.

7 “(c) DETERMINATION OF AMOUNT.—(1) The Sec-
8 retary of Labor shall determine the amount of workers
9 compensation payable to each covered Department of En-
10 ergy contractor employee under section 3662.

11 “(2)(A) The Secretary may utilize the assistance of
12 the workers’ compensation system personnel of any State
13 in making determinations under paragraph (1).

14 “(B) The utilization of assistance under subpara-
15 graph (A) shall be in accordance with an agreement en-
16 tered into by the Secretary and the chief executive officer
17 of the State concerned.

18 “(C) An agreement under subparagraph (B) may
19 provide for the Secretary to reimburse the State concerned
20 for the costs of the State in providing assistance under
21 the agreement.

22 “(3)(A) The Secretary may utilize the services of phy-
23 sicians for purposes of making determinations under this
24 subsection.

1 “(B) Any physicians utilized under subparagraph (A)
2 shall possess appropriate expertise and experience in the
3 evaluation and determination of the extent of permanent
4 physical impairments.

5 “(C) The Secretary may secure the services of physi-
6 cians under subparagraph (A) through the appointment
7 of physicians or by contract.

8 **“SEC. 3665. MEDICAL BENEFITS.**

9 “(a) IN GENERAL.—A Department of Energy con-
10 tractor employee eligible for workers compensation for an
11 occupational illness or covered illness under this subtitle
12 shall be furnished medical benefits specified in section
13 3629 for the occupational illness or covered illness, as the
14 case may be, to the same extent, and under the same con-
15 ditions and limitations, as an individual eligible for med-
16 ical benefits under that section is furnished medical bene-
17 fits under that section.

18 “(b) FUNDING.—Amounts for payments for medical
19 benefits under this section shall be derived from amounts
20 authorized to be appropriated for such purpose under sec-
21 tion 3670.

22 **“SEC. 3666. REVIEW OF CERTAIN DETERMINATIONS.**

23 “(a) STATUS AS DEPARTMENT OF ENERGY CON-
24 TRACTOR EMPLOYEE.—An individual may seek the review

1 of a determination that the individual is not a Department
2 of Energy contractor employee.

3 “(b) ELIGIBILITY AND AMOUNT OF WORKERS COM-
4 PENSATION.—A Department of Energy contractor em-
5 ployee may seek the review of any determination as fol-
6 lows:

7 “(1) A determination under section 3663(b)
8 that the Department of Energy contractor employee
9 is not a covered Department of Energy contractor
10 employee.

11 “(2) A determination under 3664 of the
12 amount of workers compensation payable to the De-
13 partment of Energy contractor employee under sec-
14 tion 3662.

15 “(c) REVIEW.—(1) The review of a determination
16 under subsection (a) or (b) shall be conducted by the Sec-
17 retary of Labor in accordance with procedures applicable
18 for the review of claims under sections 30.310 through
19 30.320 of title 20, Code of Federal Regulations, or any
20 successor regulations.

21 “(2)(A) The review of a determination under sub-
22 section (b)(1) shall include review by a physician or physi-
23 cian panel.

24 “(B) Each physician or physician on a panel under
25 subparagraph (A) shall be a physician with experience and

1 competency in diagnosing illnesses aggravated, contrib-
2 uted to, or caused by exposure to toxic substances.

3 “(C) The Secretary of Labor may investigate any al-
4 legation that a physician appointed under this paragraph
5 has a conflict of interest. If the Secretary of Labor deter-
6 mines that a conflict of interest exists, the Secretary shall
7 notify the Secretary of Health and Human Services, who
8 shall review the allegation.

9 “(D) Each review by a physician or physician panel
10 under subparagraph (A) shall be conducted in accordance
11 with such procedures as the Secretary shall prescribe.

12 “(3)(A) The results of each review under this sub-
13 section shall be submitted to the Secretary.

14 “(B) The Secretary shall accept the results of any
15 portion of a review under this subsection that consists of
16 a review by a physician or physician panel under para-
17 graph (2) unless there is substantial evidence to the con-
18 trary.

19 “(d) REVERSAL OF DETERMINATIONS.—Except as
20 provided in subsection (c)(3)(B), the Secretary of Labor
21 may vacate or reverse any determination described in sub-
22 section in subsection (a) or (b) if the Secretary deter-
23 mines, as the result of a review of such determination
24 under subsection (c), that such determination was erro-
25 neous.

1 **“SEC. 3667. ATTORNEY FEES.**

2 “(a) IN GENERAL.—Except as provided in subsection
3 (b), the provisions of section 3648 shall apply to the avail-
4 ability of attorney fees for assistance on a claim under
5 this subtitle to the same extent, and subject to the same
6 conditions and limitations, that such provisions apply to
7 the availability of attorney fees for assistance on a claim
8 under subtitle B.

9 “(b) ATTORNEY FEE SCHEDULE.—(1) The Secretary
10 of Labor may, by regulation, modify the application of sec-
11 tion 3648 to the availability of attorney fees under this
12 subtitle to establish a schedule for attorney fees under this
13 subtitle that will ensure representation of claimants and
14 appropriate compensation for such representation.

15 “(2) The amount of attorney fees for assistance on
16 claims under the schedule of attorney fees shall take into
17 appropriate account the nature and complexity of the legal
18 issues involved in such claims and the procedural level at
19 which assistance is given.

20 **“SEC. 3668. ADMINISTRATIVE MATTERS.**

21 “(a) IN GENERAL.—The Secretary of Labor shall ad-
22 minister the provisions of this subtitle.

23 “(b) CONTRACT AUTHORITY.—(1) The Secretary
24 may enter into contracts with appropriate persons and en-
25 tities in order to administer the provisions of this subtitle.

1 “(2) The authority of the Secretary to enter into con-
2 tracts under this subtitle shall be effective in any fiscal
3 year only to the extent and in such amount as are provided
4 in advance in appropriations Acts.

5 “(c) RECORDS.—(1)(A) The Secretary of Energy
6 shall provide to the Secretary of Labor all records, files,
7 and other data, whether paper, electronic, imaged, or oth-
8 erwise, developed by the Secretary of Energy that are ap-
9 plicable to the administration of the provisions of this sub-
10 title by the Secretary of Labor, including records, files,
11 and data on facility industrial hygiene, employment of in-
12 dividuals or groups, exposure and medical records, and
13 claims applications.

14 “(B) In providing records, files, and other data under
15 this paragraph, the Secretary of Energy shall preserve the
16 current organization of such records, files, and other data,
17 and shall provide such description and indexing of such
18 records, files, and other data as the Secretary of Energy
19 and the Secretary of Labor jointly consider appropriate
20 to facilitate their use by the Secretary of Labor for pur-
21 poses of this subtitle.

22 “(2) The Secretary of Energy and the Secretary of
23 Labor shall jointly undertake such actions as are appro-
24 priate to retrieve records applicable to the claims of De-
25 partment of Energy contractor employees for workers

1 compensation under this subtitle, including employment
2 records, records of exposure to beryllium, radiation, sil-
3 icon, or metals or volatile organic chemicals, and records
4 regarding medical treatment.

5 “(d) REGULATIONS.—The Secretary of Labor shall
6 prescribe regulations necessary for the administration of
7 the provisions of this subtitle.

8 **“SEC. 3669. OFFICE OF OMBUDSMAN.**

9 “(a) ESTABLISHMENT.—There is established in the
10 Department of Labor an office to be known as the ‘Office
11 of the Ombudsman’ (in this section referred to as the ‘Of-
12 fice’).

13 “(b) HEAD.—The head of the Office shall be the Om-
14 budsman. The individual serving as Ombudsman shall be
15 either of the following:

16 “(1) An officer or employee of the Department
17 of Labor designated by the Secretary for purposes of
18 this section from among officers and employees of
19 the Department who have experience and expertise
20 necessary to carry out the duties of the Office speci-
21 fied in subsection (c).

22 “(2) An individual employed by the Secretary
23 from the private sector from among individuals in
24 the private sector who have experience and expertise

1 necessary to carry out the duties of the Office speci-
2 fied in subsection (c).

3 “(c) DUTIES.—The duties of the Office shall be as
4 follows:

5 “(1) To assist individuals in making claims
6 under this subtitle.

7 “(2) To provide information on the benefits
8 available under this subtitle and on the requirements
9 and procedures applicable to the provision of such
10 benefits.

11 “(3) To act as an advocate on behalf of individ-
12 uals seeking benefits under this subtitle.

13 “(4) To make recommendations to the Sec-
14 retary regarding the location of centers (to be known
15 as ‘resource centers’) for the acceptance and devel-
16 opment of claims for benefits under this subtitle.

17 “(5) To carry out such other duties with re-
18 spect to this subtitle as the Secretary shall specify
19 for purposes of this section.

20 “(d) INDEPENDENT OFFICE.—The Secretary shall
21 take appropriate actions to ensure the independence of the
22 Office within the Department of Labor, including inde-
23 pendence from other officers and employees of the Depart-
24 ment engaged in activities relating to the administration
25 of the provisions of this subtitle.

1 “(e) ANNUAL REPORT.—(1) Not later than February
2 15 each year, the Ombudsman shall submit to Congress
3 a report on activities under this subtitle.

4 “(2) Each report under paragraph (1) shall set forth
5 the following:

6 “(A) The number and types of complaints,
7 grievances, and requests for assistance received by
8 the Ombudsman under this subtitle during the pre-
9 ceding year.

10 “(B) An assessment of the most common dif-
11 ficulties encountered by claimants and potential
12 claimants under this subtitle during the preceding
13 year.

14 “(C) Such recommendations as the Ombuds-
15 man considers appropriate for the improvement of
16 the practices of the Department of Labor in admin-
17 istering this subtitle.

18 “(D) Such recommendations at the Ombuds-
19 man considers appropriate for modifying the au-
20 thorities and requirements of this subtitle in order
21 to better address the workers compensation interests
22 of covered Department of Energy contractor employ-
23 ees and others, as determined by the Ombudsman,
24 meriting benefits under this subtitle.

1 “(3) No official of the Department of Labor, or of
2 any other department or agency of the Federal Govern-
3 ment, may require the review or approval of a report of
4 the Ombudsman under this subsection before the sub-
5 mittal of such report to Congress.

6 “(f) OUTREACH.—The Secretary of Labor and the
7 Secretary of Health and Human Services shall each under-
8 take outreach to advise the public of the existence and du-
9 ties of the Office.

10 **“SEC. 3670. AUTHORIZATION OF APPROPRIATIONS.**

11 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated to the Secretary of Labor
13 for fiscal year 2005 and each fiscal year thereafter such
14 sums as may be necessary in such fiscal year for—

15 “(1) the provision of compensation and benefits
16 under this subtitle; and

17 “(2) the administration of the provisions of this
18 subtitle.

19 “(b) AVAILABILITY WITHOUT FISCAL YEAR LIMITA-
20 TION.—Amounts authorized to be appropriated by sub-
21 section (a) shall remain available without fiscal year limi-
22 tation.

23 “(c) AVAILABILITY OF AMOUNTS SUBJECT TO AP-
24 PROPRIATIONS ACTS.—The authority to provide com-
25 pensation and benefits under this subtitle shall be effective

1 in any fiscal year only to the extent and in such amounts
2 as are provided in advance in appropriations Acts.”.

3 (b) CONFORMING AMENDMENT.—Section 3643 of the
4 Energy Employees Occupational Illness Compensation
5 Program Act of 2000 (42 U.S.C. 7385b) is amended by
6 striking “The acceptance” and inserting “Except as pro-
7 vided in subtitle D, the acceptance”.

8 (c) REGULATIONS.—The Secretary of Labor shall
9 prescribe the regulations required by section 3668(d) of
10 the Energy Employees Occupational Illness Compensation
11 Program Act of 2000, as amended by this section, not
12 later than 120 days after the date of the enactment of
13 this Act. The Secretary may prescribe interim final regula-
14 tions necessary to meet the deadlines specified in the pre-
15 ceding sentence and subsection (d)(1).

16 (d) TRANSITION.—(1) The Secretary of Labor shall
17 commence the administration of the provisions of subtitle
18 D of the Energy Employees Occupational Illness Com-
19 pensation Program Act of 2000, as amended by this sec-
20 tion, not later than 180 days after the date of the enact-
21 ment of this Act.

22 (2) The Secretary of Energy and the Secretary of
23 Labor shall jointly take such actions as are appropriate—

24 (A) to identify the activities under subtitle D of
25 the Energy Employees Occupational Illness Com-

1 pensation Program Act of 2000, as in effect on the
2 day before the date of the enactment of this Act,
3 that will continue under that subtitle, as amended by
4 this section, upon the commencement of the admin-
5 istration of that subtitle, as so amended, by the Sec-
6 retary of Labor under paragraph (1); and

7 (B) to ensure the continued discharge of such
8 activities until the commencement of the administra-
9 tion of that subtitle, as so amended, by the Sec-
10 retary of Labor under paragraph (1).

11 (3)(A) In carrying out activities under paragraph (2),
12 the Secretary of Energy shall only conduct a causation
13 review on a claim if the claim is completely prepared and
14 awaiting review as of the date of the enactment of this
15 Act.

16 (B) Activities under paragraph (2) on any claim cov-
17 ered by such activities that is not described by subpara-
18 graph (A) shall be carried out by the Secretary of Labor.

19 (e) PROVISION OF RECORDS.—The Secretary of En-
20 ergy shall, to the maximum extent practicable, complete
21 the provision of records to the Secretary of Labor under
22 section 3668(c)(1) of the Energy Employees Occupational
23 Illness Compensation Program Act of 2000, as amended
24 by this section, not later than 60 days after the date of
25 the enactment of this Act.

1 (f) SITE PROFILES.—(1)(A) The Secretary of Labor
2 shall prepare a site profile for each of the 14 Department
3 of Energy facilities that have received the most number
4 of claims for compensation and benefits under subtitle D
5 of the Energy Employees Occupational Illness Compensa-
6 tion Program Act of 2000 as of the date of the enactment
7 of this Act.

8 (B) The Secretary of Labor shall prepare a site pro-
9 file under subparagraph (A) utilizing the former worker
10 medical screening programs of the Department of Energy.

11 (2) If the Secretary of Labor determines that the
12 preparation of a site profile for a facility cannot be per-
13 formed under paragraph (1) because no worker medical
14 screening activities occurred for the facility, or that prepa-
15 ration of the profile is otherwise impracticable, the site
16 profile for the facility shall be prepared by the National
17 Institute of Occupational Safety and Health.

18 (3) All site profiles required by this subsection shall
19 be completed not later than 210 days after the date of
20 the enactment of this Act.

21 (4) The Secretary of Energy shall provide the Sec-
22 retary of Labor with any support that the Secretary of
23 Labor considers necessary for carrying out this subsection.

1 (5) In this subsection, the term “site profile”, in the
2 case of a Department of Energy facility, means an expo-
3 sure assessment that—

4 (A) identifies any processes and toxic sub-
5 stances used in the facility;

6 (B) establishes the times in which such toxic
7 substances were used in the facility; and

8 (C) establishes the degree of exposure to such
9 toxic substances taking into account available
10 records and studies and information on such proc-
11 esses and toxic substances.

12 (g) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the Secretary of Energy should—

14 (1) adopt a policy not to oppose any final posi-
15 tive determinations with respect to injured workers
16 at Department of Energy facilities and atomic weap-
17 ons employer facilities under State adjudication sys-
18 tems unless such determinations are frivolous; and

19 (2) incorporate the policy referred to in para-
20 graph (1) in all Department of Energy contracts
21 with non-Federal government entities to which such
22 policy could apply.

23 (h) FUNDING FOR ADMINISTRATION IN FISCAL YEAR
24 2005.—(1) Of the amount authorized to be appropriated
25 for fiscal year 2005 by section 3102(a)(1) for environ-

1 mental management for defense site acceleration comple-
2 tion, \$2,000,000 shall be available for purposes of the ad-
3 ministration of the provisions of subtitle D of the Energy
4 Employees Occupational Illness Compensation Program
5 Act of 2000, as amended by this section, during fiscal year
6 2005.

7 (2) The Secretary of Energy shall transfer to the Sec-
8 retary of Labor the amount available under paragraph (1)
9 for the purposes specified in that paragraph.

10 (3) The Secretary of Labor shall utilize amounts
11 transferred to the Secretary under paragraph (2) for the
12 purposes specified in paragraph (1).

13 **SEC. 3154. TERMINATION OF EFFECT OF OTHER ENHANCE-**
14 **MENTS OF ENERGY EMPLOYEES OCCUPA-**
15 **TIONAL ILLNESS COMPENSATION PROGRAM.**

16 Notwithstanding any other provision of this Act, sec-
17 tion 3143, relating to enhancements of the Energy Em-
18 ployees Occupational Illness Compensation Program, shall
19 have no force or effect, and the amendments specified in
20 such section shall not be made.

1 **SEC. 3155. SENSE OF SENATE ON RESOURCE CENTER FOR**
2 **ENERGY EMPLOYEES UNDER ENERGY EM-**
3 **PLOYEE OCCUPATIONAL ILLNESS COM-**
4 **PENSATION PROGRAM IN WESTERN NEW**
5 **YORK AND WESTERN PENNSYLVANIA RE-**
6 **GION.**

7 (a) FINDINGS.—The Senate makes the following
8 findings:

9 (1) New York has 36 current or former Depart-
10 ment of Energy facilities involved in nuclear weap-
11 ons production-related activities statewide, mostly
12 atomic weapons employer facilities, and 14 such fa-
13 cilities in western New York. Despite having one of
14 the greatest concentrations of such facilities in the
15 United States, western New York, and abutting
16 areas of Pennsylvania, continue to be severely under-
17 served by the Energy Employees Occupational Ill-
18 ness Compensation Program under the Energy Em-
19 ployees Occupational Illness Compensation Program
20 Act of 2000 (title XXXVI of the Floyd D. Spence
21 National Defense Authorization Act for Fiscal Year
22 2001 (as enacted into law by Public Law 106–398);
23 42 U.S.C. 7384 et seq.).

24 (2) The establishment of a permanent resource
25 center in western New York would represent a sub-
26 stantial step toward improving services under the

1 Energy Employees Occupational Illness Compensa-
2 tion Program for energy employees in this region.

3 (3) The number of claims submitted to the De-
4 partment under subtitle B of the Energy Employees
5 Occupational Illness Compensation Program Act of
6 2000 from the western New York region, including
7 western Pennsylvania, exceeds the number of such
8 claims filed at resource centers in Hanford, Wash-
9 ington, Portsmouth, Ohio, Los Alamos, New Mexico,
10 the Nevada Test Site, Nevada, the Rocky Flats En-
11 vironmental Technology Site, Colorado, the Idaho
12 National Engineering Laboratory, Idaho, and the
13 Amchitka Test Site, Alaska.

14 (4) Energy employees in the western New York
15 region, including western Pennsylvania, deserve as-
16 sistance under subtitle B of the Energy Employees
17 Occupational Illness Compensation Program Act of
18 2000 commensurate with the assistance provided en-
19 ergy employees at other locations in the United
20 States.

21 (b) SENSE OF SENATE.—It is the sense of the Senate
22 to encourage the Office of Ombudsman of the Department
23 of Labor, as established by section 3669 of the Energy
24 Employees Occupational Illness Compensation Program

1 Act of 2000 (as amended by section 3163 of this Act),
2 to—

3 (1) review the availability of assistance under
4 subtitle B of the Energy Employees Occupational
5 Illness Compensation Program Act of 2000 for en-
6 ergy employees in the western New York region, in-
7 cluding western Pennsylvania; and

8 (2) recommend a location in that region for a
9 resource center to provide such assistance to such
10 energy employees.

11 **SEC. 3156. REVIEW BY CONGRESS OF INDIVIDUALS DES-**
12 **IGNATED BY PRESIDENT AS MEMBERS OF CO-**
13 **HORT.**

14 Section 3621(14)(C)(ii) of that Act (42 U.S.C. 10
15 7384l(14)(C)(ii)) is amended by striking “180 days” and
16 inserting “60 days.”

17 **SEC. 3157. INCLUSION OF CERTAIN FORMER NUCLEAR**
18 **WEAPONS PROGRAM WORKERS IN SPECIAL**
19 **EXPOSURE COHORT UNDER THE ENERGY EM-**
20 **PLOYEES OCCUPATIONAL ILLNESS COM-**
21 **PENSATION PROGRAM.**

22 (a) FINDINGS.—Congress makes the following find-
23 ings:

24 (1) Energy workers at the former Mallinkrodt
25 facilities (including the St. Louis downtown facility

1 and the Weldon Springs facility) were exposed to
2 levels of radionuclides and radioactive materials that
3 were much greater than the current maximum allow-
4 able Federal standards.

5 (2) The Mallinkrodt workers at the St. Louis
6 site were exposed to excessive levels of airborne ura-
7 nium dust relative to the standards in effect during
8 the time, and many workers were exposed to 200
9 times the preferred levels of exposure.

10 (3)(A) The chief safety officer for the Atomic
11 Energy Commission during the Mallinkrodt-St.
12 Louis operations described the facility as 1 of the 2
13 worst plants with respect to worker exposures.

14 (B) Workers were excreting in excess of a milli-
15 gram of uranium per day causing kidney damage.

16 (C) A recent epidemiological study found excess
17 levels of nephritis and kidney cancer from inhalation
18 of uranium dusts.

19 (4) The Department of Energy has admitted
20 that those Mallinkrodt workers were subjected to
21 risks and had their health endangered as a result of
22 working with these highly radioactive materials.

23 (5) The Department of Energy reported that
24 workers at the Weldon Springs feed materials plant

1 handled plutonium and recycled uranium, which are
2 highly radioactive.

3 (6) The National Institute of Occupational
4 Safety and Health admits that—

5 (A) the operations at the St. Louis down-
6 town site consisted of intense periods of proc-
7 essing extremely high levels of radionuclides;
8 and

9 (B) the Institute has virtually no personal
10 monitoring data for Mallinkrodt workers prior
11 to 1948.

12 (7) The National Institute of Occupational
13 Safety and Health has informed claimants and their
14 survivors at those 3 Mallinkrodt sites that if they
15 are not interviewed as a part of the dose reconstruc-
16 tion process, it—

17 (A) would hinder the ability of the Insti-
18 tute to conduct dose reconstruction for the
19 claimant; and

20 (B) may result in a dose reconstruction
21 that incompletely or inaccurately estimates the
22 radiation dose to which the energy employee
23 named in the claim had been exposed.

24 (8) Energy workers at the Iowa Army Ammuni-
25 tion Plant (also known as the Burlington Atomic

1 Energy Commission Plant and the Iowa Ordnance
2 Plant) between 1947 and 1975 were exposed to lev-
3 els of radionuclides and radioactive material, includ-
4 ing enriched uranium, plutonium, tritium, and de-
5 pleted uranium, in addition to beryllium and photon
6 radiation, that are greater than the current max-
7 imum Federal standards for exposure.

8 (9) According to the National Institute of Occu-
9 pational Safety and Health—

10 (A) between 1947 and 1975, no records,
11 including bioassays or air samples, have been
12 located that indicate any monitoring occurred of
13 internal doses of radiation to which workers de-
14 scribed in paragraph (8) were exposed;

15 (B) between 1947 and 1955, no records,
16 including dosimetry badges, have been located
17 to indicate that any monitoring occurred of the
18 external doses of radiation to which such work-
19 ers were exposed;

20 (C) between 1955 and 1962, records indi-
21 cate that only 8 to 23 workers in a workforce
22 of over 1,000 were monitored for external radi-
23 ation doses; and

24 (D) between 1970 and 1975, the high
25 point of screening at the Iowa Army Ammuni-

1 tion Plant, only 25 percent of the workforce
2 was screened for exposure to external radiation.

3 (10) The Department of Health and Human
4 Services published the first notice of proposed rule-
5 making concerning the Special Exposure Cohort on
6 June 25, 2002, and the final rule published on May
7 26, 2004.

8 (11) Many of those former workers have died
9 while waiting for the proposed rule to be finalized,
10 including some claimants who were waiting for dose
11 reconstruction to be completed.

12 (12) Because of the aforementioned reasons, in-
13 cluding the serious lack of records and the death of
14 many potential claimants, it is not feasible to con-
15 duct valid dose reconstructions for the Iowa Army
16 Ammunition Plant facility or the Mallinkrodt facili-
17 ties.

18 (b) INCLUSION OF CERTAIN FORMER WORKERS IN
19 COHORT.—Section 3621(14) of the Energy Employees
20 Occupational Illness Compensation Program Act of 2000
21 (title XXXVI of the Floyd D. Spence National Defense
22 Authorization Act for Fiscal Year 2001 (as enacted into
23 law by Public Law 106–398); 42 U.S.C. 7384(14)) is
24 amended—

1 (1) by redesignating subparagraph (C) as sub-
2 paragraph (D); and

3 (2) by inserting after subparagraph (B) the fol-
4 lowing new subparagraph (C):

5 “(C) Subject to the provisions of section
6 3612A and section 3146(e) of the National De-
7 fense Authorization Act for Fiscal Year 2005,
8 the employee was so employed for a number of
9 work days aggregating at least 45 workdays at
10 a facility operated under contract to the De-
11 partment of Energy by Mallinkrodt Incor-
12 porated or its successors (including the St.
13 Louis downtown or ‘Destrehan’ facility during
14 any of calendar years 1942 through 1958 and
15 the Weldon Springs feed materials plant facility
16 during any of calendar years 1958 through
17 1966), or at a facility operated by the Depart-
18 ment of Energy or under contract by Mason &
19 Hangar-Silas Mason Company at the Iowa
20 Army Ammunition Plant (also known as the
21 Burlington Atomic Energy Commission Plant
22 and the Iowa Ordnance Plant) during any of
23 the calendar years 1947 through 1975, and
24 during the employment—

1 “(i)(I) was monitored through the use
2 of dosimetry badges for exposure at the
3 plant of the external parts of an employ-
4 ee’s body to radiation; or

5 “(II) was monitored through the use
6 of bioassays, in vivo monitoring, or breath
7 samples for exposure at the plant to inter-
8 nal radiation; or

9 “(ii) worked in a job that had expo-
10 sures comparable to a job that is mon-
11 itored, or should have been monitored,
12 under standards of the Department of En-
13 ergy in effect on the date of enactment of
14 this subparagraph through the use of do-
15 simetry badges for monitoring external ra-
16 diation exposures, or bioassays, in vivo
17 monitoring, or breath samples for internal
18 radiation exposures, at a facility.”.

19 (c) FUNDING OF COMPENSATION AND BENEFITS.—

20 (1) Such Act is further amended by inserting after section
21 3612 the following new section:

1 **“SEC. 3612A. FUNDING FOR COMPENSATION AND BENEFITS**
2 **FOR CERTAIN MEMBERS OF THE SPECIAL EX-**
3 **POSURE COHORT.**

4 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
5 is hereby authorized to be appropriated to the Department
6 of Labor for each fiscal year after fiscal year 2004 such
7 sums as may be necessary for the provision of compensa-
8 tion and benefits under the compensation program for
9 members of the Special Exposure Cohort described in sec-
10 tion 3621(14)(C) in such fiscal year.

11 “(b) PROHIBITION ON USE FOR ADMINISTRATIVE
12 COSTS.—(1) No amount authorized to be appropriated by
13 subsection (a) may be utilized for purposes of carrying out
14 the compensation program for the members of the Special
15 Exposure Cohort referred to in that subsection or admin-
16 istering the amount authorized to be appropriated by sub-
17 section (a).

18 “(2) Amounts for purposes described in paragraph
19 (1) shall be derived from amounts authorized to be appro-
20 priated by section 3614(a).

21 “(c) PROVISION OF COMPENSATION AND BENEFITS
22 SUBJECT TO APPROPRIATIONS ACTS.—The provision of
23 compensation and benefits under the compensation pro-
24 gram for members of the Special Exposure Cohort re-
25 ferred to in subsection (a) in any fiscal year shall be sub-
26 ject to the availability of appropriations for that purpose

1 for such fiscal year and to applicable provisions of appro-
2 priations Acts.”.

3 (2) Section 3612(d) of such Act (42 U.S.C. 7384e(d))
4 is amended—

5 (A) by inserting “(1)” before “Subject”; and

6 (B) by adding at the end the following new
7 paragraph:

8 “(2) Amounts for the provision of compensation and
9 benefits under the compensation program for members of
10 the Special Exposure Cohort described in section
11 3621(14)(C) may be derived from amounts authorized to
12 be appropriated by section 3612A(a).”.

13 (d) OFFSET.—The total amount authorized to be ap-
14 propriated under subtitle A of this title is hereby reduced
15 by \$61,000,000.

16 (e) CERTIFICATION.—Funds shall be available to pay
17 claims approved by the National Institute of Occupational
18 Safety and Health for a facility by reason of section
19 3621(14)(C) of the Energy Employees Occupational Ill-
20 ness Compensation Program Act of 2000, as amended by
21 subsection (b)(2), if the Director of the National Institute
22 of Occupational Safety and Health certifies with respect
23 to such facility each of the following:

24 (1) That no atomic weapons work or related
25 work has been conducted at such facility after 1976.

1 (2) That fewer than 50 percent of the total
 2 number of workers engaged in atomic weapons work
 3 or related work at such facility were accurately mon-
 4 itored for exposure to internal and external ionizing
 5 radiation during the term of their employment.

6 (3) That individual internal and external expo-
 7 sure records for employees at such facility are not
 8 available, or the exposure to radiation of at least 40
 9 percent of the exposed workers at such facility can-
 10 not be determined from the individual internal and
 11 external exposure records that are available.

12 (f) SENSE OF THE SENATE.—It is the sense of the
 13 Senate that all employees who are eligible to apply for ben-
 14 efits under the compensation program established by the
 15 Energy Employees Occupational Illness Compensation Act
 16 should be treated fairly and equitably with regard to inclu-
 17 sion under the special exposure cohort provisions of this
 18 Act.

19 **TITLE XXXII—DEFENSE NU-**
 20 **CLEAR FACILITIES SAFETY**
 21 **BOARD**

22 **SEC. 3201. AUTHORIZATION.**

23 There are authorized to be appropriated for fiscal
 24 year 2005, \$21,268,000 for the operation of the Defense

1 Nuclear Facilities Safety Board under chapter 21 of the
2 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

3 **TITLE XXXIII—NATIONAL**
4 **DEFENSE STOCKPILE**

5 **SEC. 3301. DISPOSAL OF FERROMANGANESE.**

6 (a) DISPOSAL AUTHORIZED.—The Secretary of De-
7 fense may dispose of up to 50,000 tons of ferromanganese
8 from the National Defense Stockpile during fiscal year
9 2005.

10 (b) CONTINGENT AUTHORITY FOR ADDITIONAL DIS-
11 POSAL.—After the disposal of ferromanganese authorized
12 by subsection (a)—

13 (1) the Secretary may dispose of up to an addi-
14 tional 25,000 tons of ferromanganese from the Na-
15 tional Defense Stockpile before September 30, 2005;
16 and

17 (2) if the Secretary completes the disposal au-
18 thorized by paragraph (1) before September 30,
19 2005, the Secretary may dispose of up to an addi-
20 tional 25,000 tons of ferromanganese from the Na-
21 tional Defense Stockpile before that date.

22 (c) CERTIFICATION.—The Secretary may dispose of
23 ferromanganese under paragraph (1) or (2) of subsection
24 (b) only if the Secretary, with the concurrence of the Sec-
25 retary of Commerce, certifies to the congressional defense

1 committees not later than 30 days before the commence-
2 ment of disposal under the applicable paragraph that—

3 (1) the disposal of ferromanganese under such
4 paragraph is in the national interest due to extraor-
5 dinary circumstances in markets for
6 ferromanganese;

7 (2) the disposal of ferromanganese under such
8 paragraph will not cause undue harm to domestic
9 manufacturers of ferroalloys; and

10 (3) the disposal of ferromanganese under such
11 paragraph is consistent with the requirements and
12 purpose of the National Defense Stockpile under the
13 Strategic and Critical Materials Stock Piling Act (50
14 U.S.C. 98 et seq.).

15 (d) DELEGATION OF RESPONSIBILITY.—The Sec-
16 retary of Defense and the Secretary of Commerce may
17 each delegate the responsibility of such Secretary under
18 subsection (c) to an appropriate official within the Depart-
19 ment of Defense or the Department of Commerce, as the
20 case may be.

21 (e) NATIONAL DEFENSE STOCKPILE DEFINED.—In
22 this section, the term “National Defense Stockpile” means
23 the stockpile provided for in section 4 of the Strategic and
24 Critical Materials Stock Piling Act (50 U.S.C. 98c).

1 **SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES**
2 **FOR CERTAIN PREVIOUSLY AUTHORIZED DIS-**
3 **POSALS FROM THE NATIONAL DEFENSE**
4 **STOCKPILE.**

5 Section 3303(a) of the Strom Thurmond National
6 Defense Authorization Act for Fiscal Year 1999 (50
7 U.S.C. 98d note) is amended—

8 (1) in paragraph (4), by striking “and” at the
9 end;

10 (2) in paragraph (5), by striking the period at
11 the end and inserting “; and”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(6) \$870,000,000 by the end of fiscal year
15 2014.”.

16 **SEC. 3303. PROHIBITION ON STORAGE OF MERCURY AT**
17 **CERTAIN FACILITIES.**

18 (a) PROHIBITION.—The Secretary of Defense may
19 not store mercury from the National Defense Stockpile at
20 any facility that is not owned or leased by the United
21 States.

22 (b) NATIONAL DEFENSE STOCKPILE DEFINED.—In
23 this section, the term “National Defense Stockpile” means
24 the stockpile provided for in section 4 of the Strategic and
25 Critical Materials Stock Piling Act (50 U.S.C. 98c).

1 **TITLE XXXIV—LOCAL LAW EN-**
2 **FORCEMENT ENHANCEMENT**
3 **ACT.**

4 **SEC. 3401. SHORT TITLE.**

5 This title may be cited as the “Local Law Enforce-
6 ment Enhancement Act of 2004”.

7 **SEC. 3402. FINDINGS.**

8 Congress makes the following findings:

9 (1) The incidence of violence motivated by the
10 actual or perceived race, color, religion, national ori-
11 gin, gender, sexual orientation, or disability of the
12 victim poses a serious national problem.

13 (2) Such violence disrupts the tranquility and
14 safety of communities and is deeply divisive.

15 (3) State and local authorities are now and will
16 continue to be responsible for prosecuting the over-
17 whelming majority of violent crimes in the United
18 States, including violent crimes motivated by bias.
19 These authorities can carry out their responsibilities
20 more effectively with greater Federal assistance.

21 (4) Existing Federal law is inadequate to ad-
22 dress this problem.

23 (5) The prominent characteristic of a violent
24 crime motivated by bias is that it devastates not just
25 the actual victim and the family and friends of the

1 victim, but frequently savages the community shar-
2 ing the traits that caused the victim to be selected.

3 (6) Such violence substantially affects interstate
4 commerce in many ways, including—

5 (A) by impeding the movement of members
6 of targeted groups and forcing such members to
7 move across State lines to escape the incidence
8 or risk of such violence; and

9 (B) by preventing members of targeted
10 groups from purchasing goods and services, ob-
11 taining or sustaining employment, or partici-
12 pating in other commercial activity.

13 (7) Perpetrators cross State lines to commit
14 such violence.

15 (8) Channels, facilities, and instrumentalities of
16 interstate commerce are used to facilitate the com-
17 mission of such violence.

18 (9) Such violence is committed using articles
19 that have traveled in interstate commerce.

20 (10) For generations, the institutions of slavery
21 and involuntary servitude were defined by the race,
22 color, and ancestry of those held in bondage. Slavery
23 and involuntary servitude were enforced, both prior
24 to and after the adoption of the 13th amendment to
25 the Constitution of the United States, through wide-

1 spread public and private violence directed at per-
2 sons because of their race, color, or ancestry, or per-
3 ceived race, color, or ancestry. Accordingly, elimi-
4 nating racially motivated violence is an important
5 means of eliminating, to the extent possible, the
6 badges, incidents, and relics of slavery and involun-
7 tary servitude.

8 (11) Both at the time when the 13th, 14th, and
9 15th amendments to the Constitution of the United
10 States were adopted, and continuing to date, mem-
11 bers of certain religious and national origin groups
12 were and are perceived to be distinct “races”. Thus,
13 in order to eliminate, to the extent possible, the
14 badges, incidents, and relics of slavery, it is nec-
15 essary to prohibit assaults on the basis of real or
16 perceived religions or national origins, at least to the
17 extent such religions or national origins were re-
18 garded as races at the time of the adoption of the
19 13th, 14th, and 15th amendments to the Constitu-
20 tion of the United States.

21 (12) Federal jurisdiction over certain violent
22 crimes motivated by bias enables Federal, State, and
23 local authorities to work together as partners in the
24 investigation and prosecution of such crimes.

1 (13) The problem of crimes motivated by bias
2 is sufficiently serious, widespread, and interstate in
3 nature as to warrant Federal assistance to States
4 and local jurisdictions.

5 **SEC. 3403. DEFINITION OF HATE CRIME.**

6 In this title, the term “hate crime” has the same
7 meaning as in section 280003(a) of the Violent Crime
8 Control and Law Enforcement Act of 1994 (28 U.S.C.
9 994 note).

10 **SEC. 3404. SUPPORT FOR CRIMINAL INVESTIGATIONS AND**
11 **PROSECUTIONS BY STATE AND LOCAL LAW**
12 **ENFORCEMENT OFFICIALS.**

13 (a) ASSISTANCE OTHER THAN FINANCIAL ASSIST-
14 ANCE.—

15 (1) IN GENERAL.—At the request of a law en-
16 forcement official of a State or Indian tribe, the At-
17 torney General may provide technical, forensic, pros-
18 ecutorial, or any other form of assistance in the
19 criminal investigation or prosecution of any crime
20 that—

21 (A) constitutes a crime of violence (as de-
22 fined in section 16 of title 18, United States
23 Code);

24 (B) constitutes a felony under the laws of
25 the State or Indian tribe; and

1 (C) is motivated by prejudice based on the
2 race, color, religion, national origin, gender,
3 sexual orientation, or disability of the victim, or
4 is a violation of the hate crime laws of the State
5 or Indian tribe.

6 (2) PRIORITY.—In providing assistance under
7 paragraph (1), the Attorney General shall give pri-
8 ority to crimes committed by offenders who have
9 committed crimes in more than 1 State and to rural
10 jurisdictions that have difficulty covering the ex-
11 traordinary expenses relating to the investigation or
12 prosecution of the crime.

13 (b) GRANTS.—

14 (1) IN GENERAL.—The Attorney General may
15 award grants to assist State, local, and Indian law
16 enforcement officials with the extraordinary expenses
17 associated with the investigation and prosecution of
18 hate crimes.

19 (2) OFFICE OF JUSTICE PROGRAMS.—In imple-
20 menting the grant program, the Office of Justice
21 Programs shall work closely with the funded juris-
22 dictions to ensure that the concerns and needs of all
23 affected parties, including community groups and
24 schools, colleges, and universities, are addressed

1 through the local infrastructure developed under the
2 grants.

3 (3) APPLICATION.—

4 (A) IN GENERAL.—Each State that desires
5 a grant under this subsection shall submit an
6 application to the Attorney General at such
7 time, in such manner, and accompanied by or
8 containing such information as the Attorney
9 General shall reasonably require.

10 (B) DATE FOR SUBMISSION.—Applications
11 submitted pursuant to subparagraph (A) shall
12 be submitted during the 60-day period begin-
13 ning on a date that the Attorney General shall
14 prescribe.

15 (C) REQUIREMENTS.—A State or political
16 subdivision of a State or tribal official applying
17 for assistance under this subsection shall—

18 (i) describe the extraordinary pur-
19 poses for which the grant is needed;

20 (ii) certify that the State, political
21 subdivision, or Indian tribe lacks the re-
22 sources necessary to investigate or pros-
23 ecute the hate crime;

24 (iii) demonstrate that, in developing a
25 plan to implement the grant, the State, po-

1 litical subdivision, or tribal official has con-
2 sulted and coordinated with nonprofit, non-
3 governmental victim services programs
4 that have experience in providing services
5 to victims of hate crimes; and

6 (iv) certify that any Federal funds re-
7 ceived under this subsection will be used to
8 supplement, not supplant, non-Federal
9 funds that would otherwise be available for
10 activities funded under this subsection.

11 (4) DEADLINE.—An application for a grant
12 under this subsection shall be approved or dis-
13 approved by the Attorney General not later than 30
14 business days after the date on which the Attorney
15 General receives the application.

16 (5) GRANT AMOUNT.—A grant under this sub-
17 section shall not exceed \$100,000 for any single ju-
18 risdiction within a 1 year period.

19 (6) REPORT.—Not later than December 31,
20 2005, the Attorney General shall submit to Congress
21 a report describing the applications submitted for
22 grants under this subsection, the award of such
23 grants, and the purposes for which the grant
24 amounts were expended.

1 (7) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated to carry out
3 this subsection \$5,000,000 for each of fiscal years
4 2005 and 2006.

5 **SEC. 3405. GRANT PROGRAM.**

6 (a) AUTHORITY TO MAKE GRANTS.—The Office of
7 Justice Programs of the Department of Justice shall
8 award grants, in accordance with such regulations as the
9 Attorney General may prescribe, to State and local pro-
10 grams designed to combat hate crimes committed by juve-
11 niles, including programs to train local law enforcement
12 officers in identifying, investigating, prosecuting, and pre-
13 venting hate crimes.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as may be
16 necessary to carry out this section.

17 **SEC. 3406. AUTHORIZATION FOR ADDITIONAL PERSONNEL**

18 **TO ASSIST STATE AND LOCAL LAW ENFORCE-**

19 **MENT.**

20 There are authorized to be appropriated to the De-
21 partment of the Treasury and the Department of Justice,
22 including the Community Relations Service, for fiscal
23 years 2005, 2006, and 2007 such sums as are necessary
24 to increase the number of personnel to prevent and re-

1 spond to alleged violations of section 249 of title 18,
2 United States Code, as added by section ____07.

3 **SEC. 3407. PROHIBITION OF CERTAIN HATE CRIME ACTS.**

4 (a) IN GENERAL.—Chapter 13 of title 18, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 249. Hate crime acts**

8 “(a) IN GENERAL.—

9 “(1) OFFENSES INVOLVING ACTUAL OR PER-
10 CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-
11 GIN.—Whoever, whether or not acting under color of
12 law, willfully causes bodily injury to any person or,
13 through the use of fire, a firearm, or an explosive or
14 incendiary device, attempts to cause bodily injury to
15 any person, because of the actual or perceived race,
16 color, religion, or national origin of any person—

17 “(A) shall be imprisoned not more than 10
18 years, fined in accordance with this title, or
19 both; and

20 “(B) shall be imprisoned for any term of
21 years or for life, fined in accordance with this
22 title, or both, if—

23 “(i) death results from the offense; or

24 “(ii) the offense includes kidnaping or
25 an attempt to kidnap, aggravated sexual

1 abuse or an attempt to commit aggravated
2 sexual abuse, or an attempt to kill.

3 “(2) OFFENSES INVOLVING ACTUAL OR PER-
4 CEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEX-
5 UAL ORIENTATION, OR DISABILITY.—

6 “(A) IN GENERAL.—Whoever, whether or
7 not acting under color of law, in any cir-
8 cumstance described in subparagraph (B), will-
9 fully causes bodily injury to any person or,
10 through the use of fire, a firearm, or an explo-
11 sive or incendiary device, attempts to cause
12 bodily injury to any person, because of the ac-
13 tual or perceived religion, national origin, gen-
14 der, sexual orientation, or disability of any
15 person—

16 “(i) shall be imprisoned not more
17 than 10 years, fined in accordance with
18 this title, or both; and

19 “(ii) shall be imprisoned for any term
20 of years or for life, fined in accordance
21 with this title, or both, if—

22 “(I) death results from the of-
23 fense; or

24 “(II) the offense includes kid-
25 napping or an attempt to kidnap, ag-

1 gravated sexual abuse or an attempt
2 to commit aggravated sexual abuse, or
3 an attempt to kill.

4 “(B) CIRCUMSTANCES DESCRIBED.—For
5 purposes of subparagraph (A), the cir-
6 cumstances described in this subparagraph are
7 that—

8 “(i) the conduct described in subpara-
9 graph (A) occurs during the course of, or
10 as the result of, the travel of the defendant
11 or the victim—

12 “(I) across a State line or na-
13 tional border; or

14 “(II) using a channel, facility, or
15 instrumentality of interstate or for-
16 eign commerce;

17 “(ii) the defendant uses a channel, fa-
18 cility, or instrumentality of interstate or
19 foreign commerce in connection with the
20 conduct described in subparagraph (A);

21 “(iii) in connection with the conduct
22 described in subparagraph (A), the defend-
23 ant employs a firearm, explosive or incen-
24 diary device, or other weapon that has

1 traveled in interstate or foreign commerce;

2 or

3 “(iv) the conduct described in sub-
4 paragraph (A)—

5 “(I) interferes with commercial
6 or other economic activity in which
7 the victim is engaged at the time of
8 the conduct; or

9 “(II) otherwise affects interstate
10 or foreign commerce.

11 “(b) CERTIFICATION REQUIREMENT.—No prosecu-
12 tion of any offense described in this subsection may be
13 undertaken by the United States, except under the certifi-
14 cation in writing of the Attorney General, the Deputy At-
15 torney General, the Associate Attorney General, or any
16 Assistant Attorney General specially designated by the At-
17 torney General that—

18 “(1) he or she has reasonable cause to believe
19 that the actual or perceived race, color, religion, na-
20 tional origin, gender, sexual orientation, or disability
21 of any person was a motivating factor underlying the
22 alleged conduct of the defendant; and

23 “(2) he or his designee or she or her designee
24 has consulted with State or local law enforcement of-

1 officials regarding the prosecution and determined
2 that—

3 “(A) the State does not have jurisdiction
4 or does not intend to exercise jurisdiction;

5 “(B) the State has requested that the Fed-
6 eral Government assume jurisdiction;

7 “(C) the State does not object to the Fed-
8 eral Government assuming jurisdiction; or

9 “(D) the verdict or sentence obtained pur-
10 suant to State charges left demonstratively
11 unvindicated the Federal interest in eradicating
12 bias-motivated violence.

13 “(c) DEFINITIONS.—In this section—

14 “(1) the term ‘explosive or incendiary device’
15 has the meaning given the term in section 232 of
16 this title; and

17 “(2) the term ‘firearm’ has the meaning given
18 the term in section 921(a) of this title.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—

20 The analysis for chapter 13 of title 18, United States
21 Code, is amended by adding at the end the following:

“249. Hate crime acts.”.

22 **SEC. 3408. DUTIES OF FEDERAL SENTENCING COMMISSION.**

23 (a) AMENDMENT OF FEDERAL SENTENCING GUIDE-
24 LINES.—Pursuant to the authority provided under section
25 994 of title 28, United States Code, the United States

1 Sentencing Commission shall study the issue of adult re-
2 cruitment of juveniles to commit hate crimes and shall,
3 if appropriate, amend the Federal sentencing guidelines
4 to provide sentencing enhancements (in addition to the
5 sentencing enhancement provided for the use of a minor
6 during the commission of an offense) for adult defendants
7 who recruit juveniles to assist in the commission of hate
8 crimes.

9 (b) CONSISTENCY WITH OTHER GUIDELINES.—In
10 carrying out this section, the United States Sentencing
11 Commission shall—

12 (1) ensure that there is reasonable consistency
13 with other Federal sentencing guidelines; and

14 (2) avoid duplicative punishments for substan-
15 tially the same offense.

16 **SEC. 3409. STATISTICS.**

17 Subsection (b)(1) of the first section of the Hate
18 Crimes Statistics Act (28 U.S.C. 534 note) is amended
19 by inserting “gender,” after “race,”.

20 **SEC. 3410. SEVERABILITY.**

21 If any provision of this title, an amendment made by
22 this title, or the application of such provision or amend-
23 ment to any person or circumstance is held to be unconsti-
24 tutional, the remainder of this title, the amendments made
25 by this title, and the application of the provisions of such

1 to any person or circumstance shall not be affected there-
2 by.

3 **TITLE XXXV—ASSISTANCE TO**
4 **FIREFIGHTERS.**

5 **SEC. 3501. SHORT TITLE.**

6 This title may be cited as the “Assistance to Fire-
7 fighters Act of 2004”.

8 **SEC. 3502. AUTHORITY OF SECRETARY OF HOMELAND SE-**
9 **CURITY FOR FIREFIGHTER ASSISTANCE PRO-**
10 **GRAM.**

11 (a) **IN GENERAL.**—Subsection (b)(1) of section 33 of
12 the Federal Fire Prevention and Control Act of 1974 (15
13 U.S.C. 2229) is amended by striking “Director” in the
14 matter preceding subparagraph (A) and inserting “Sec-
15 retary of Homeland Security, in consultation with the Ad-
16 ministrator,”.

17 (b) **CONFORMING AMENDMENT.**—Such section is fur-
18 ther amended by striking “Director” each place it appears
19 and inserting “Secretary of Homeland Security”.

20 (c) **TECHNICAL AMENDMENT.**—The heading of sub-
21 section (b)(8) of such section is amended by striking “DI-
22 RECTOR” and inserting “SECRETARY”.

1 **SEC. 3503. GRANTS TO VOLUNTEER EMERGENCY MEDICAL**
2 **SERVICE ORGANIZATIONS.**

3 (a) **AUTHORITY TO AWARD GRANTS TO VOLUNTEER**
4 **EMERGENCY MEDICAL SERVICE SQUADS.**—Paragraph
5 (1)(A) of section 33(b) of the Federal Fire Prevention and
6 Control Act of 1974 (15 U.S.C. 2229(b)) is amended by
7 inserting “or to volunteer emergency medical service orga-
8 nizations” after “fire departments”.

9 (b) **USE OF GRANT FUNDS.**—Paragraph (3)(F) of
10 such section is amended by inserting “or volunteer emer-
11 gency medical service organizations that are not affiliated
12 with a for-profit entity” after “fire departments”.

13 (c) **SPECIAL RULE FOR APPLICATIONS FOR VOLUN-**
14 **TEER EMERGENCY MEDICAL SERVICES.**—Paragraph (5)
15 of such section is amended by adding at the end, the fol-
16 lowing new subparagraph:

17 “(C) **SPECIAL RULE FOR VOLUNTEER**
18 **EMERGENCY MEDICAL SERVICES.**—The Sec-
19 retary of Homeland Security shall permit an
20 applicant seeking grant funds for volunteer
21 emergency medical services under paragraph
22 (3)(F) to use the same application form to seek
23 grant funds for one or more of the other pur-
24 poses set out in subparagraphs (A) through (O)
25 of paragraph (3).”.

1 **SEC. 3504. GRANTS FOR AUTOMATED EXTERNAL**
2 **DEFIBRILLATOR DEVICES.**

3 Paragraph (3) of section 33(b) of the Federal Fire
4 Prevention and Control Act of 1974 (15 U.S.C. 2229(b))
5 is amended by adding at the end the following new sub-
6 paragraph:

7 “(O) To obtain automated external
8 defibrillator devices.”.

9 **SEC. 3405. CRITERIA FOR REVIEWING GRANT APPLICA-**
10 **TIONS.**

11 Paragraph (2) of section 33(b) of the Federal Fire
12 Prevention and Control Act of 1974 (15 U.S.C. 2229(b))
13 is amended to read as follows:

14 “(2) CRITERIA AND REVIEW OF APPLICA-
15 TIONS.—

16 “(A) PRELIMINARY REVIEW CRITERIA.—

17 “(i) IN GENERAL.—The Secretary of
18 Homeland Security shall establish specific
19 criteria for the preliminary review of an
20 application submitted under this section. If
21 an application does not meet such criteria,
22 the application may not receive further
23 consideration for a grant under this sec-
24 tion.

25 “(ii) ANNUAL REVIEW OF CRITERIA.—

26 Not less often than once each year, the

1 Secretary of Homeland Security, in con-
2 sultation with the Administrator, shall con-
3 vene a meeting of individuals who are
4 members of a fire service and are recog-
5 nized for expertise in firefighting or in
6 emergency medical services provided by
7 fire services, and who are not employees of
8 the Federal Government for the purpose of
9 reviewing and proposing changes to the
10 criteria established under clause (i).

11 “(B) SELECTION THROUGH REVIEW BY
12 EXPERTS.—

13 “(i) REQUIREMENT FOR REVIEW.—
14 The Secretary of Homeland Security shall
15 award grants under this section based on
16 the review of applications for such grants
17 by a panel of fire service personnel ap-
18 pointed by a national organization recog-
19 nized for expertise in the operation and ad-
20 ministration of fire services.

21 “(ii) ROLE OF THE SECRETARY.—The
22 Secretary of Homeland Security shall pro-
23 vide for the administration of the review
24 panel described in clause (i) and shall en-
25 sure that an individual appointed to such

1 panel is a recognized expert in firefighting,
 2 medical services provided by fire services,
 3 fire prevention, or research on firefighter
 4 safety.”.

5 **SEC. 3506. FINANCIAL ASSISTANCE FOR FIREFIGHTER**
 6 **SAFETY PROGRAMS.**

7 (a) **AUTHORITY.**—Paragraph (1)(B) of section 33(b)
 8 of the Federal Fire Prevention and Control Act of 1974
 9 (15 U.S.C. 2229(b)) is amended by inserting “and fire-
 10 fighter safety” after “prevention”.

11 (b) **EXPANSION OF EXISTING PROGRAM.**—

12 (1) **FIREFIGHTER SAFETY ASSISTANCE.**—Para-
 13 graph (4) of such section is amended—

14 (A) in subparagraph (A)(ii), by striking
 15 “organizations that are recognized” and all that
 16 follows and inserting “organizations eligible
 17 under subparagraph (B) for the purposes de-
 18 scribed in subparagraph (C).”; and

19 (B) by striking subparagraph (B), and in-
 20 serting the following new subparagraphs:

21 “(B) **ELIGIBILITY FOR ASSISTANCE.**—An
 22 organization may be eligible for assistance
 23 under subparagraph (A)(ii), if such organiza-
 24 tion is a national, State, local, or community
 25 organization that is not a fire service and that

1 is recognized for experience and expertise with
2 respect to programs and activities that
3 promote—

4 “(i) fire prevention or fire safety; or

5 “(ii) the health and safety of fire-
6 fighting personnel.

7 “(C) USE OF FUNDS.—Assistance provided
8 under subparagraph (A)(ii) shall be used—

9 “(i) to carry out fire prevention pro-
10 grams; or

11 “(ii) to fund research to improve the
12 health and safety of firefighting personnel.

13 “(D) PRIORITY.—In selecting organiza-
14 tions described in subparagraph (B) to receive
15 assistance under this paragraph, the Secretary
16 of Homeland Security shall give priority—

17 “(i) to organizations that focus on
18 preventing injuries from fire to members of
19 groups at high risk of such injuries, with
20 an emphasis on children; and

21 “(ii) to organizations that focus on re-
22 searching methods to improve the health
23 and safety of firefighting personnel.

24 “(E) ALLOCATION OF FUNDS.—Not less
25 than 66 percent of the total amount of funds

1 made available in a fiscal year to carry out this
2 paragraph shall be made available of the pro-
3 grams described in subparagraph (A)(ii).”.

4 (2) CONFORMING AMENDMENT.—The heading
5 of such paragraph is amended to read as follows:

6 “(4) FIRE PREVENTION AND FIREFIGHTER
7 SAFETY PROGRAMS.—”.

8 (c) AVAILABILITY OF FUNDS FOR FIRE PREVENTION
9 AND FIREFIGHTER SAFETY PROGRAMS.—Paragraph
10 (4)(A) of such section, as amended by subsection (b), is
11 further amended in the matter preceding clause (i), by
12 striking “5 percent” and inserting “6 percent”.

13 **SEC. 3507. ASSISTANCE FOR APPLICATIONS.**

14 Paragraph (5) of section 33(b) of the Federal Fire
15 Prevention and Control Act of 1974 (15 U.S.C. 2229(b)),
16 as amended by section 3(e), is further amended by adding
17 at the end the following new subparagraph:

18 “(D) ASSISTANCE TO PREPARE AN APPLI-
19 CATION.—The Secretary of Homeland Security
20 shall provide assistance with the preparation of
21 applications for grants under this section.”.

22 **SEC. 3508. REDUCED REQUIREMENTS FOR MATCHING**
23 **FUNDS.**

24 (a) AMOUNT REQUIRED.—Paragraph (6) of section
25 33(b) of the Federal Fire Prevention and Control Act of

1 1974 (15 U.S.C. 2229(b)) is amended by striking sub-
2 paragraphs (A) and (B) and inserting the following:

3 “(A) IN GENERAL.—Subject to subpara-
4 graphs (B) and (C), the Secretary of Homeland
5 Security may provide assistance under this sub-
6 section only if the applicant for such assistance
7 agrees to match 20 percent of such assistance
8 for any fiscal year with an equal amount of
9 non-Federal funds.

10 “(B) REQUIREMENT FOR SMALL COMMU-
11 NITY ORGANIZATIONS.—In the case of an appli-
12 cant whose personnel—

13 “(i) serve jurisdictions of 50,000 or
14 fewer residents, the percent applied under
15 the matching requirement of subparagraph
16 (A) shall be 10 percent; or

17 “(ii) serve jurisdictions of 20,000 or
18 fewer residents, the percent applied under
19 the matching requirement of subparagraph
20 (A) shall be 5 percent.”.

21 (b) EXCEPTION.—Such paragraph, as amended by
22 subsection (a), is further amended by adding at the end
23 the following new subparagraph:

24 “(C) EXCEPTION.—No matching funds
25 may be required under this subsection for as-

1 sistance provided under subparagraph (A)(ii) of
2 paragraph (4) to an organization described in
3 subparagraph (B) of such paragraph.”.

4 (c) SPECIAL RULE FOR REQUESTS FOR AUTOMATED
5 EXTERNAL DEFIBRILLATOR DEVICES.—Section 33(b) of
6 such Act is further amended by adding at the end the fol-
7 lowing new paragraph:

8 “(13) SPECIAL RULES FOR GRANTS FOR AUTO-
9 MATED EXTERNAL DEFIBRILLATOR DEVICES.—

10 “(A) LIMITATIONS.—The Secretary of
11 Homeland Security shall reduce the percentage
12 of non-Federal matching funds for a grant as
13 described in subparagraph (B) if—

14 “(i) the applicant is requesting grant
15 funds to obtain one or more automated ex-
16 ternal defibrillator devices, as authorized
17 by paragraph (3)(O);

18 “(ii) the award of such grant will re-
19 sult in the applicant possessing exactly one
20 such device for each first-due emergency
21 vehicle operated by the applicant;

22 “(iii) the applicant certifies to the
23 Secretary of Homeland Security that the
24 applicant possesses, at the time such appli-
25 cation is filed, a number of such devices

1 that is less than the number of first-due
2 emergency vehicles operated by the appli-
3 cant and that the applicant is capable of
4 storing, in a manner conducive to rapid
5 use, such devices on each such vehicle; and

6 “ (iv) the applicant has not previously
7 received a grant under this subsection to
8 obtain such devices.

9 “(B) MATCHING REQUIREMENTS.—If an
10 applicant meets the criteria set out in clauses
11 (i), (ii), (iii), and (iv) of subparagraph (A), the
12 Secretary of Homeland Security shall reduce
13 the percentage of non-Federal matching funds
14 required by paragraph (6) by 2 percentage
15 points for all assistance requested in the appli-
16 cation submitted by such applicant.

17 “(C) FIRST-DUE DEFINED.—In this para-
18 graph, the term ‘first-due’ means the fire-
19 fighting and emergency medical services vehi-
20 cles that are utilized by a fire service for imme-
21 diate response to an emergency situation.”.

22 **SEC. 3509. GRANT RECIPIENT LIMITATIONS.**

23 (a) LIMITATIONS ON GRANT AMOUNTS.—Subpara-
24 graph (A) of section 33(b)(10) of the Federal Fire Preven-

1 tion and Control Act of 1974 (15 U.S.C. 2229(b)(10)) is
2 amended to read as follows:

3 “(A) LIMITATIONS ON GRANT AMOUNT.—

4 “(i) GENERAL LIMITATION.—Subject
5 to clause (ii), a recipient of assistance
6 under this section may not receive in a fis-
7 cal year an amount of such assistance that
8 exceeds the greater of \$2,250,000 or the
9 amount equal to 0.5 percent of the total
10 amount of funds appropriated for such as-
11 sistance for such fiscal year.

12 “(ii) LIMITATIONS ON BASIS OF POPU-
13 LATION.—Subject to clause (iii), a recipi-
14 ent of assistance under this section that
15 serves a jurisdiction of less than 1,000,000
16 individuals may not receive more than
17 \$1,500,000 of such assistance for a fiscal
18 year, except that such a recipient that
19 serves a jurisdiction of less than 500,000
20 individuals may not receive more than
21 \$1,000,000 of such assistance during a fis-
22 cal year.

23 “(iii) WAIVER.—With respect to as-
24 sistance provided in a fiscal year before fis-
25 cal year 2007, the Secretary of Homeland

1 Security, in consultation with the Adminis-
2 trator, may waive the limitations set out in
3 clause (ii) if the Secretary determines that
4 a waiver is warranted by an extraordinary
5 need for assistance for fire suppression ac-
6 tivities by a jurisdiction, whether such need
7 is caused by the likelihood of terrorist at-
8 tack, natural disaster, destructive fires oc-
9 ccurring over a large geographic area, or
10 some other cause.”.

11 (b) LIMITATIONS ON GRANTS FOR VOLUNTEER
12 EMERGENCY MEDICAL SERVICES.—Such section, as
13 amended by subsection (a), is further amended by adding
14 at the end the following new subparagraph:

15 “(C) LIMITATIONS ON EXPENDITURES FOR
16 VOLUNTEER EMERGENCY MEDICAL SERVICES.—
17 Not more than 3.5 percent of the funds appro-
18 priated to provide grants under this section for
19 a fiscal year may be awarded to volunteer emer-
20 gency medical service organizations.”.

21 **SEC. 3510. OTHER CONSIDERATIONS.**

22 Section 33(b) of the Federal Fire Prevention and
23 Control Act of 1974 (15 U.S.C. 2229(b)), as amended by
24 section 8, is amended by adding at the end the following
25 new paragraph:

1 “(14) OTHER CONSIDERATIONS.—In providing
2 assistance under this section, the Secretary of
3 Homeland Security shall—

4 “(A) consider the extent to which the re-
5 cipient of such assistance is able to enhance the
6 daily operations of a fire service and to improve
7 the protection of people and property from fire;
8 and

9 “(B) ensure that such assistance awarded
10 to a volunteer emergency medical service orga-
11 nization will not be used to provide emergency
12 medical services in a geographic area if such
13 services are adequately provided by a fire serv-
14 ice in such area.”.

15 **SEC. 3511. REPORTS TO CONGRESS.**

16 (a) **STUDY AND REPORT ON ASSISTANCE TO FIRE-**
17 **FIGHTERS.**—

18 (1) **STUDY.**—The Secretary, in conjunction with
19 the National Fire Protection Association, shall con-
20 duct a study—

21 (A) to assess the types of activities that
22 are carried out by fire services;

23 (B) to determine whether the level of Fed-
24 eral funding made available to fire services is
25 adequate;

1 (C) to assess categories of services, includ-
2 ing emergency medical services, that are not
3 adequately provided by fire services on either
4 the national or State level; and

5 (D) to measure the effect, if any, of the as-
6 sistance provided under section 33 of the Fed-
7 eral Fire Prevention and Control Act of 1974
8 (15 U.S.C. 2229) on the needs of fire services
9 identified in the report submitted to Congress
10 under section 1701(b) of the Floyd D. Spence
11 National Defense Authorization Act for Fiscal
12 Year 2001 (as enacted into law by Public Law
13 106–398; 114 Stat. 1654A–363).

14 (2) REPORT.—Not later than 18 months after
15 the date of the enactment of this Act, the Secretary
16 shall submit to Congress a report on the findings of
17 the study described in paragraph (1).

18 (b) REPORT BY GAO.—Not later than 18 months
19 after the date of the enactment of this Act, the Comp-
20 troller General of the United States shall submit to Con-
21 gress a report on—

22 (1) the administration of the assistance pro-
23 vided under section 33 of the Federal Fire Preven-
24 tion and Control Act of 1974 (15 U.S.C. 2229); and

1 (2) the success of the Secretary in admin-
2 istering the Federal Emergency Management Agen-
3 cy.

4 (c) REPORT ON WAIVER OF AMOUNT LIMITA-
5 TIONS.—Not later than 18 months after the date of the
6 enactment of this Act, the Secretary shall submit to Con-
7 gress a report on the instances, if any, of the use of the
8 waiver authority set out in section 33(b)(10)(A)(iii) of the
9 Federal Fire Prevention and Control Act of 1974 (15
10 U.S.C. 2229(b)(10)(A)(iii)), as added by section 9.

11 (d) DEFINITIONS.—In this section:

12 (1) FIRE SERVICE.—The term “fire service”
13 has the meaning given that term in section 4 of the
14 Federal Fire Prevention and Control Act of 1974
15 (15 U.S.C. 2203).

16 (2) SECRETARY.—The term “Secretary” means
17 the Secretary of Homeland Security.

18 **SEC. 3512. TECHNICAL CORRECTIONS.**

19 (a) REPEAL OF DUPLICATIVE DEFINITION.—Sub-
20 section (d) of section 33 of the Federal Fire Prevention
21 and Control Act of 1974 (15 U.S.C. 2229) is repealed.

22 (b) REDESIGNATIONS NECESSITATED BY DUPLICA-
23 TIVE NUMBERING.—The sections 33 and 34 of the Fed-
24 eral Fire Prevention and Control Act of 1974 (15 U.S.C.
25 2230 and 2231) that were added by sections 105 and 106

1 of Public Law 106–503 (114 Stat. 2301) are redesignated
2 as sections 34 and 35, respectively.

3 **SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) **FIREFIGHTER ASSISTANCE PROGRAMS.**—Section
5 33(e) of the Federal Fire Prevention and Control Act of
6 1974 (15 U.S.C. 2229(e)) is amended by striking the first
7 sentence and inserting “There are authorized to be appro-
8 priated for the purposes of this section \$900,000,000 for
9 fiscal year 2005, \$950,000,000 for fiscal year 2006, and
10 \$1,000,000,000 for each of the fiscal years 2007 through
11 2010.”.

12 (b) **STUDY ON ASSISTANCE TO FIREFIGHTERS.**—
13 There are authorized to be appropriated to the Secretary
14 of Homeland Security \$300,000 for fiscal year 2005 to
15 carry out the requirements of section 4011(a).

Passed the Senate June 23 (legislative day, June
22), 2004.

Attest:

Secretary.

108TH CONGRESS
2^D SESSION

S. 2400

AN ACT

To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

June 23 (Legislative day, June 22), 2004

Ordered to be printed as passed